13 1947

General

SEGREGATION

Court Rulings Seem to Be Laying Groundwork Legally For Spread of Segregation

By BENJAMIN E. MAYS

(The views expressed in this column are those of the writer and do not necessarily express the editorial opinion of The Pittsburgh Courier.—The Editors.)

DESPITE OUR FIGHT against segregation it seems not only to continue to exist, but it actually spreads, certainly in some areas. When it doesn't spread, it becomes temporarily more rigidly established. Segregation is a cat with nine lives. It is hard to kill segregation bceause the Federal courts apparently condone it. It has been pointed out in these pages before that in every case where the Negro has won in Federal courts, he has won on the basis of discrimination on account of race or color and not on the basis of segregation.

Mr. Mays

Recently, the Interstate Commerce Commission handed down a ruling which clearly recognizes segregation as legal. It is the case of Henderson v. the Southern Railroad. The Commission ruled that the Southern Railroad, in its failure to furnish dining car service to Mr. Henderson, May 17, 1942, en route from Washington to Atlanta, did subject Mr. Henderson to undue and unreasonable prejudice and disadvantage, but took the position that there was no basis for an award of damages and that the regulations in effect at that time did not result in any substantial inequality of treatment as between colored and white passengers seeking dining car service.

Mr. Henderson brought suit in the United States District Court for Maryland to set aside the order of the Commission. The District Court ruled that the regulations did not provide for equality as required by the Interstate Commerce Act. The order of the Commission was set aside and the case was remanded for further proceeding. Observe carefully, the court's emphasis and the Commission's emphasis was on the word "inequality" and not that Mr. Henderson was segregated.

* * *

MY OWN CASE is similar. I was refused service Oct. 7, 1944, en route from Atlanta to New York. Eleven tables, including the two tables behind the curtains reserved for Negroes, were filled. Forty-four people were seated. There was one vacant table with four seats, not behind the curtains. I was not permitted to sit there although the seats reserved for Negroes were occupied by whites. I was forced out of the diner and told to wait until the tables behind the curtains were cleared. The Interstate Commerce Commission ruled, as in Mr. Henderson's case, that I had been subjected to undue annd unreasonable prejudice and disadvantage but I was denied damages to the amount of $2,500 because the Southern Railroad has now provided equal but separate accommodations. So the Commission ruled on Feb. 15, 1947, with the respect to Henderson which covered my case which they ruled upon around April 15.

What is this new regulation? The Southern Railroad calls itself now meeting the inequality regulation as pointed out by the United States District Court for Maryland. The new regulation follows:

1. That one table at the left side of the aisle facing the buffet, seating four persons, shall be reserved exclusively for colored passenegrs and the other tables exclusively for white passengers.

2. That before starting each meal the curtain separating this one table from the other tables would be drawn.

3. That a "reserved" card would be kept on the table for colored at all times during the meal except when it is occupied.

* * *

SEGREGATION, therefore, remains intact. What is gained in this new regulation? Heretofore, Negroes had to get into the diner within twenty minutes after the first call whether they were hungry or not. White passengers were seated at the two reserved tables if Negro passengers did not show up in twenty minutes. Once white passengers were seated, Negroes had to wait as a rule until the two tables were vacated, which often meant until white passengers had finished their meals. Frequently it meant that Negroes could eat only on the last call after the best food had been served. Now Negroes can eat any time while meals are served provided not more than four Negroes seek service at the same time. If more than four Negroes seek service at the same time, they must wait until there is a seat at this one table. White people cannot eat there and Negroes cannot eat at the other eleven tables.

Since Negroes will get the same kind and quality of food; since they will get equality in service; since the linen, silverware and glasses will be the same as those served whites, the conclusion drawn by the Southern Railroad, and maybe by the courts, is that their service is separate but equal.

* * *

SEGREGATION is a cat with nine lives. When the NAACP won the Gaines case, segregation began to spread. The State of Missouri set up a jim-crow law school in St. Louis. North Carolina, South Carolina, Texas, Alabama and other Southern States began to operate or plan segregated graduate schools. The cases won against inequality in salaries in the public schools do not disturb segregation. Since the darkest hour of night is just before day, it may be that this spreading and confirming of segregation is the dark hour just before day in the process of eliminating it completely. Since segregation is denial of the best there is both in democracy and Christianity, it cannot stand forever. As for the legal basis for tackling segregation, I leave it to the experts in the law.

GIVE THESE JUDGES A HAND

Afro-American

Every once in a while, encouraging news comes out of the South. Baltimore, Md. Sat. 5-24-47

The Supreme Court of Mississippi recently ordered the release of W. O. Craft, a war veteran, who was serving a 10-year chain gang sentence for assault.

Craft, his brother and brother-in-law sought to defend themselves against a mob of 200 whites after deputies fired without warning into their home last August.

The State Supreme Court, in reversing the conviction, warned law-enforcement officers against making arrests without warrants. This is going a long way in Mississippi.

At Columbia, S.C., last week, U. S. District Court Judge J. Waties Waring made news when he rejected a defense motion to dismiss the action brought by George A. Elmore, business man, against white Democrats who purged his name from the voting rolls. Sat. 5-24-47

The Elmore case, first test action against South Carolina's attempts to get around the U. S. Supreme Court's outlawing of the white primary, will be heard next month, thanks to Judge Waring.

These two cases in Mississippi and South Carolina involve two fundamental rights—the right to protect one's home from unwarranted invasion and the right to vote.

Our hat is off to the jurists who had the courage of their convictions. We need more men of their stature—North and South.

THE POINT

Norfolk, Va.

Court Victories For Racial Justice Must Be Followed With Full Action Consolidating Such Gaines; Otherwise People Will Lose Best Chance

By—
Gordon B. Hancock
Sat - 8-9-47

MY FATHER was a great preacher who was dearly beloved of his people. Once he was called from a "poor-dying-rate" field to one where he could live off the "fat of the land." The people were pleading and crying and I with them in an effort to get him to remain in a pastorate that me loved him but which could not sustain his fast growing family. He spoke rather convincingly to me in this wise. "There is no need for God to make a better way for a man H the man does not make it." This is true of the Negroes in their attempt to vote. Now decision rendered segregation who are gaining such mo-the right to vote in primaries laws ineffective in interstate mentous decisions in the courts has been sustained in a most of the land. Unless Negroes dramatic fashion, it is strictly travel. This means that Ne- exploit the opportunities up to Negroes to follow through groes traveling from one state decisions give them, they fail and vote and thus consolidate to another do not have to abide in one of the major gains. When armies win battles, they when a Negro boards a train the time Journal + Guide must pause momentarily to in Richmond for points North consolidate their gains." Ne-he is not compelled to ride jim

More recently Judge Waring's decision in South Carolina gave groes must do the same thing crow. Of course in spite of the primary rights to Negroes and in regard to their gradually ex-legal decisions efforts are being now it is up to Negroes to vote. panding legal opportunities in studiously made to induce Ne- I remember too well the great this gradually relenting South groes to still ride jim crow. Phoenix riot of 1998 when Sat. 8/9/47 Some days ago I boarded a scores and possibly hundreds Within recent months a court of South Carolina Negroes died

After a few minutes the Negro red cap came through and kindly notified me that "this is the white people's, the colored coach is just ahead." I thanked him graciously and kept my seat. Evidently he had been sent by some white official and of course I did not hold the Negro red cap responsible. He had his living to make by serving the railroad. I did not think very much of me in the first place.

Last week in making another trip to Washington I deliberately passed the beckoning porter who was turning Negroes into the jim crow coach as usual. I passed farther along and entered a coach patently set aside for white and sat down in sumptuous comfort. I did not do this because I love my people less but because I hated jim crow more. I further decided that if my white friends thought less of me for trying to break down jim crow they did not have mine to make, and decided to try my hand in the situation.

In a few minutes a white official appeared and asked me rather curtly to move ahead in the colored coach forward. Said I to him, "Do I have to move?" "No," said he, "but I would like for you to move." I replied, "But I would not like to move." This was the end of the joust and nothing further happened.

I would have been happy in the coach with my people but I was happier to know that I was contributing my bit to the "consolidation of gains" that have been made in the transportation area of race relations. When I asked the official if I had" to move, I was of course giving him the opportunity to run afoul of the law which he would have done had he answered in the affirmative.

My advice is when Negroes decide to test their cases they ride two and two so as to be able to witness for one another.

Journal & Guide
Norfolk, Va.
Sat. 8/9/47

13 1947

Grand Jury System

TARHEEL WEEK

- By -
C. D. Halliburton

Norfolk, Va.

Greensboro Judge Contends Our Grand Jury System Allows Guilty Men To Go Free; Says Solicitors and Sheriffs Would Make Better Record

Journal and Guide

RALEIGH, N. C.—Judge H. Hoyle Sink, of Greensboro, one of the most distinguished of the state's superior court jurists, had the following to say about the grand jury system, as reported by the Associated Press. "The grand jury system is responsible for more guilty men freely walking our streets than any other factor. Grand juries have freed men whom the most weak-kneed solicitors and sheriffs would dare not fail to bring to trail. They are a detriment to our court system."

Judge Sink is the author of more than one bill presented to the General Assembly in the past to eliminate the grand jury from North Carolina's court system, and he has served notice that he will submit another such bill to the next legislature. His bill would dispense with indictment by grand jury, and that body woud be convened only in special cases by order of the presiding judge. Prosecution would be based on warrants.

That Judge Sink has been attacking the ancient Anglo-Saxon institution of the grand jury for several years establishes the fact that the failure of the Northampton county body to find a true bill in the case of the Godwin Bush abductors does not explain the origin of his views. But it is reasonably certain that the Northampton fiasco is connected with his reiteration of his opinion on the subject at this time. Judge Sink has been on the superior court bench for more than 20 years.

* * *

Another N[redacted]arolina superior court j[redacted]ures in our news of the [redacted] Judge William H. Bobbitt has ruled that Woods Morgan, of Charlotte, whose application to operate a barber college was rejected by the State Board of Barber Examiners, must be given a hearing by the board on his application within 60 days.

Mr. Morgan has been for some time the storm center of a controversy which has brought the barber board a great deal of unfavorable attention, which finally resulted in the authorization by the 1947 General Assembly of an investigation of all state licensing boards. Among the charges aired against the barber board were acceptance for licenses to operate schools including schools for Negroes, which would compete with those owned by certain members of the board. Arbitrary denial of individual barber licenses was also charged, and the legislature passed measures revising the licensing code to some extent.

In the recent Morgan case ruling Judge Bobbitt declared certain regulations promulgated by the Board of Barber Examiners as to barber schools were "invalid and of no legal effect," and characterized them as "arbitrary, discriminatory and capricious, bearing no reasonable relation to the public health, sanitation and safety." The board has announced that it will appeal to the State Supreme Court.

9-6-47

The General Assembly of the Presbyterian Church, U. S. (southern) in a recent meeting at Montreat, discussed possible withdrawal from the Federal Council of Churches. A special committee took up the matter. Dissatisfaction with the Federal Council was declared to krow out of certain doctrinal differences, but also at issue were the "basically socialistic" views of the Federal Council, and its endorsement of the elimination of racial segregation, which stand the Presbyterian committee called "unwise and improper."

* * *

The Advisory Budget Commission has authorized the expenditure of nearly $9,000,000 from the state's 50 million dollar permanent improvement fund. Of this amount $6,250,000 would go for the general hospital and medical center when federal funds are released to the state for its health program. Other funds were designated for acquisition of more of the Camp Butner property and improvement of that already acquired from the federal gover[redacted]here. The camp is be[redacted]ed for a hospital for w[redacted]ane.

Sat.

[redacted]rovement of facilities fo[redacted]ro mental patients the Co[redacted]ission approved an expenditure of $1,096,100 for the hospital at Goldsboro, principally for two new dormitories and for extensive plant improvements and repairs.

Other Negro institutions included in the Budget Commission's allotments were, A. and T. College, $120,000 for farm buildings and a laundry; Winston-Salem Teachers College, $100,000 for repairs; Fayetteville Teachers College, $30,800, miscellaneous; North Carolina College, $25,000 for a home for the president; Morrison Training School delinquent boys), $18,600 for repairs.

* * 9-6-47

The late Sigmund F. Teiser, retired Jewish business man of Henderson, left in his will $100 to every church, white and Negro, in Henderson and Vance county. Fifty-three colored and 59 white churches will qualify, it is said.

13a 1947

$250 Damages Awarded Man Against Coach Co.

13a Daily World Atlanta, Ga.
Tues. 2-11-47

RICHMOND, Va. — (NNPA) — John W. Reigns, a federal government employee, of Washington, D. C., was awarded damages of $250 against the Carolina Coach Company of Virginia by a jury in Law and Equity Court here last Wednesday, because one of its bus drivers had him arrested here May 20 when he refused to move to the rear of the vehicle when ordered to do so.

Damages of $10,000 were sought from the company and Justice of the Peace James O. Kirk. Judge Willis Miller, who presided at the trial, granted a motion to dismiss the suit against Kirk on the ground that in issuing a warrant for Reigns' arrest, he was acting in his official capacity and therefore could not be held liable for the act.

Reigns was returning from North Carolina to Washington. After the bus pulled out of the Richmond terminal, the driver, C. L. Jordan, ordered him to move to the rear. Reigns said there were no empty seats and he refused to move.

The bus driver summoned the justice of the peace, who issued the warrant charging Reigns with disorderly conduct. Reigns was arrested and held in jail until the next day when he posted bond. The charge against Reigns was dismissed in Police Court June 10.

Reigns brought suit on the ground that he had been wrongfully arrested, humiliated and deprived of his civil rights in violation of the State and Federal Constitutions. 2-11-47

The bus company defended on the ground that its driver was simply carrying out the provisions of the State segregation law.

District Chief in Louisiana Denies Petition Of Negro for Admittance to State University

13a

BATON ROUGE, LA., April 1 —(AP)—District Judge G. Caldwell Herget today sustained Louisiana State University in its refusal to admit Viola M. Johnson, a Negro, to the university medical school.

The judge said in his decision that the applicant should "seek or make demand upon Southern University (State institution for Negroes) for the establishment of a school of medicine . . . and in the meantime pursue her studies outside the State of Louisiana under the provisions of Act 142 of 1946."

This act provides scholarships for Negroes to pursue outside the State courses not available to them in Louisiana.

The judge in a separate brief said his findings in the Johnson case also applied to another by a Negro man seeking admission to the university.

Louis Berry, attorney for the applicant, said the decision would be appealed to the Louisiana Supreme Court. He said no action could be taken in Federal Court "until we have exhausted all our resources in the State courts."

Berry said that the case of the other Negro, Charles J. Hatfield, who sought admission to the university law school, also would be pursued.

Following the filing of the Hatfield suit, Louisiana State and Southern Universities collaborated in the establishment of a law school at the Negro institution, which will begin classes next Fall. Members of the State board of education said at the time, however, that it was considered impracticable to establish a medical school at Southern, because several million dollars would be required to equip it.

Berry said today that the Southern law school so far "exists on paper only" and that he did not consider it an adequate solution.

Miss Johnson is a graduate of Southern University and a resident of New Iberia, La. She is now attending Meharry Medical School, in Nashville, Tenn., Berry said. Hatfield is a resident of New Orleans and graduate of Xavier University.

ALTHOUGH YOUR NAME MAY BE GONZALES, the school authorities of California will no longer be able to segregate your children in the public schools. The Ninth Circuit Court of Appeals has handed down a unanimous decision outlawing segregated schools in California. What distinguishes the decision from others upholding racial and ethnic democracy is the vigor of its language and the boldness of its conclusions. Justice William Denman, (in a concurring opinion,) went one step farther than his colleagues and suggested that the school authorities of Orange County should be indicted for their flagrant violation of the oath of office. "It is to such officials," Justice Denman caustically observed, "who so violate their oaths of office and openly break the state and federal law, and who set such an example to boys and girls, that these adolescents are intrusted to grow up in the American way of life." If Mexican youngsters could be segregated, he said, so could other groups; and thus "Hitler's anti-Semitism would have a long start in a country which gave its youth to aid in its destruction." If the school authorities appeal to the Supreme Court, which they are likely to do in order to escape possible indictment for past derelictions, the Westminster case may, indeed, make legal history in the nation.

The Nation
3-3-47
New York N. Y.

Wis. Civil Rights Law Ruled Valid in Barber Bias Case

Afro-American Baltimore, Md.
Sat. 3-8-47

MADISON, Wis.—(ANP)—The constitutionality of Wisconsin's civil rights statute, prohibiting biased treatment of minority groups within the State, was termed valid by Circuit Judge Alvin C. Reis last Tuesday at a hearing conducted on civil rights violation by a white barber.

Legality of the statute was questioned by Lester C. Lee, counsel for William H. Stratman, barber, who was charged with discriminating against the Rev. M. Boyde Patrick of Madison by demanding $3 for a normally 75-cent haircut. Sat. 3-8-47

Lee held the statute unconstitutional because it deprived private business of their property and rights "without due process of law." The judge declared that "private property rights must yield to the public policy demands against race discrimination."

Continuing, the jurist said: "One-third of one per cent of the Wisconsin population is colored, and if the Legislature determines it to be the public State policy to protect this minority, the courts cannot properly veto it."

Jim-Crow Law in State Hit 2nd Time

Pittsburgh, Pa. Courier
Sat. 2-15-47
13a

By Special Correspondent

RICHMOND, Va. — In an unprecedented case in Virginia an all-white jury last week awarded John W. Raigns of Washington, D. C., judgment for $250 damages against the Carolina Coach Company of Virginia, because one of its bus drivers caused him to be arrested when he refused to move to the rear.

The case was heard in Law and Equity Court and Raigns' statement of the case was not questioned by the company. In addition to the bus company, Raigns made local Justice of the Peace James O. Kirk a defendant. Kirk issued the warrant for Raigns' arrest, but Judge Willis D. Miller granted a defense motion that the action against Kirk be dismissed on the ground that he was acting in his capacity as a public official and could not be sued.

Raigns, a Federal employe, said he was en route from North Carolina to Washington last May 20 in one of the company's buses. He was seated near the front of the bus and shortly after it left the Richmond bus station the driver, C. L. Jordan, asked him to move to the rear.

CASE DISMISSED

Raigns said he looked and saw no empty seats in the rear of the bus, so he refused to move. The bus driver then summoned Kirk, who issued a warrant charging that Raigns "did unlawfully be disorderly on the Washington bus of the Carolina Trailways and did refuse to move to the rear when ordered by C. L. Jordan, operator of the bus."

Raigns was lodged in jail in Richmond, and was not released until the next day when he posted bail. The case was set to be heard in Police Court on May 28, but was continued until June 10, when it was dismissed by Police Court Justice Carleton E. Jewett.

Raigns then entered suit against the bus company for $10,000, on the ground that he was imprisoned, humiliated, and deprived of his civil rights as guaranteed by the Federal and State Constitutions and laws. The suit was filed by Martin A. Martin, local attorney.

"CARRIED OUT LAW"

Contesting the case, the bus company contended through its attorney that its driver was merely carrying out provisions of the Virginia segregation laws when he asked Raigns to move. Had the driver not asked Raigns to move, the company said, he and the company would have been guilty of violating the law. The company claimed that the driver was "a conservator of the peace and had the same power to make arrests that justices had."

SECOND SET-BACK

The jury's verdict in this case followed a precedent established in a recent decision of Judge John L. Ingram, of Hustings Court, who ruled, in effect, that the Virginia segregation law was unconstitutional. In that case Judge Ingram dismissed a charge against an Emporia (Va.) lawyer who had refused to move to a rear seat when ordered to do so by a bus driver.

The defendants were J. C. Thornberry and Dewey F. Trayler of Marianna, Ark. Testimony presented went to show that the two men attacked Bonnet on a lonely stretch of Highway No. 1, six miles south of Jonesboro, last August, and inflicted head injuries with a pistol and blackjack. Trayler, a soldier, was not at the trial.

$1,125 Awarded Victim of Attack

Pittsburgh Courier
Sat. 3-1-47

JONESBORO, Ark.—(ANP)—A verdict was handed down in favor of John Bennett in Circuit Court here last Monday, awarding him $500 in actual damages and $25 punitive damages from two whites for a pistol beating near here last August. Sat. 3-1-47

WALLS CRUMBLE

Pittsburgh, Pa. Courier

By HORACE R. CAYTON

Stamps and Powell Victory in Dining Car Case Helps Us All

(The views expressed in this column are those of the writer and do not necessarily express the editorial opinion of The Pittsburgh Courier.—The Editors.)

Sat. 5-10-47

WHEN you are humiliated and rejected it's easy to slink away and nurse your wounds in private. Perhaps for some it's still easier to rush into the danger that is implicit in the very rules of segregation. It's mighty hard to stand your ground firmly and wage a cool, calm, heady fight. Not many Negroes can do this and none can do it all of the time for it takes too much out of you emotionally. But we can be thankful for those courageous few who uphold their own manhood and the respect of all Negroes.

Mr. Cayton

There has been a mighty change in the mores of the South, especially in reference to eating on trains. I remember when a Negro could not get a ham sandwich in a diner after it passed the Mason-Dixon Line — couldn't even walk through the dining car. But that's changed a great deal now. There are few railroad lines in which there isn't a colored section where a Negro can eat, and in many instances the whole taboo against Negroes eating with whites is breaking down completely. What will help this will be more cases like that which was recently won by James E. Stamps of Chicago and Ennis L. Powell of Charleston, West Virginia.

* * *

STAMPS AND POWELL were travelling to Nashville to attend an executive committee meeting of the Fisk University Alumni Association. When they went to the diner for breakfast, because there were no seats left vacant in the so-called colored section, they were refused service. Later, after they had returned to their drawing room, the steward sent back for them and told them that they could now eat as two of the jim-crow seats were then vacant. But neither Stamps nor Powell would return under those conditions and further, refused to have their breakfast served to them in their drawing room. Instead of that, they brought a suit for $25,000 against the Louisville and Nashville Railroad Company.

The suit came up for trial week before last and although they didn't win $25,000, they won something more important for every Negro in the United States—they won a moral victory over segregation in the dining cars, and most startling of all, they won this victory in Louisville, Kentucky, before a white Southern jury. The case has a great deal of importance as it sets a legal precedent on the basis of which many more suits can be brought. It will make all of the railroad lines a little more careful about refusing to serve Negro passengers (as a matter of fact, they're jumpy already).

Sat. 5-10-47

THE CASE SETS yet another precedent—one for us as Negroes. Those who would claim to be Negro leaders, those who would claim to have the courage of their convictions, those who would claim to be the spokesmen for a race of people who are fighting for their freedom, will have to learn that they can't always duck the issue of segregation by eating in the jim-crow section of the dining car or taking their meals in their private rooms.

It's hard always to stand up and fight, and sometimes one is just too sick and tired of the whole thing to take a stand, and that's understandable psychologically. But people who represent the group as leaders, as spokesmen, will have to begin to shoulder more responsibility for their own behavior. We've got enough people who will abjectly shrink away from a tough situation and probably too many who run into trouble with their heads down and arms swinging. What we need is more and more calm, determined men with the intestinal fortitude to put up a fight without hysteria or fear.

Being a Negro in the United States is hard. One never knows where he stands. One never knows whether he will be rejected or segregated. And a Negro, like everyone else, wants to have a pleasant trip and not have it spoiled by insults. But every person who assumes the responsibility of leadership must construct a code of personal ethics and a limit to the amount of segregation he will accept. And having worked out such a code of personal behavior he can then say for himself, "Anything beyond this point is too humiliating for me to accept and at that time. I'm going to fight back."

* * *

I'VE ALWAYS had the hunch that if tomorrow by some magical act every Negro would stop acting like a Negro and act like a man, the institution of segregation would collapse almost overnight. I don't expect that to happen because too few people would have courage enuogh to do this, but every time one does, it makes it just a little bit easier for the next guy to maintain his manhood.

Servant Branded as 'Thief'

Equity Court Awards Virginian $6,000 Verdict in Libel Case

The Pittsburgh Courier, Pittsburgh, Pa.

Sat-7-26-47

RICHMOND, Va.—A jury in Law and Equity Court, Part II, awarded Will Davis of Clarksville a $6,000 verdict in his libel suit against his former employer, Mrs. Annie W. Suhor, of 3603 Chamberlayne Avenue.

It was the second time that Davis had been awarded a verdict against her. Last October 2, a jury in the same court awarded Davis, who is 76, a verdict of $17,500. Last March 22, Judge Haskins Hobson granted a defense motion to set aside the verdict on the ground that it was excessive.

In the second trial Attorney Ralph H. Ferrell Jr. of Richmond, guardian "ad litem" for Mrs. Suhor, pleaded mental incompetence by Mrs. Suhor as a defense. It was the first time that plea has been made in Virginia since 1817.

In letters read to the jury, Mrs. Suhor referred to Davis as "a thief" and warned him he would be consumed "by everlasting flames" unless he left her farm in Mecklenburg County, which he managed prior to 1945.

SERVED FOR FIFTY YEARS

Davis, who was employed as a servant in Mrs. Suhor's family for almost fifty years, told the jury he had been unable to find employment since he left her farm in 1945.

NEWS—HISTORY OF FIGHT

Dr. James Asa Shield, a Richmond psychiatrist, testified that he and Dr. R. Finley Gayle, also of Richmond, examined Mrs. Suhor for two hours last November 14 and decided she was mentally sick.

Dr. Shields said Mrs. Suhor told him that after she learned of Davis' suit a ball of fire shot out of a photograph of her dead father and that her father appeared in the ball and told her not to worry and that he would take care of her.

Sat-7-26-47

When the jury brought in the $6,000 verdict, the defense made a motion that the verdict be set aside on the ground that it was contrary to the law and the evidence. Judge Hobson continued the motion without setting a date for hearing arguments on it.

Jailing of Baby Held Justified

Afro-American

Baltimore, Md.

Judge Rules Action in Infant's Interest

Sat. 7-26-47

DECISION ORAL

Mother Plans Appeal of Suit for $50,000

By NAT TURNER

RICHMOND—Ruling that it to a 2-month-old baby's "adv tage" for a police court justice put it in jail if its mother is c fined there, Judge Haskins H son on Friday upheld Justice Jo ett's demurrer in a $50,000 da age suit against the jurist.

Following pronouncement o the judge's ruling in Law and Equity Court, Part 2, Howard H. Carwile, counsel for the plaintiff, Anna M. Jackson, 4-month-old daughter of Mrs. Ora Carter Jackson, announced that he would appeal the case to the Virginia Supreme Court of Appeals.

Apparently considering the aspects of the case so lightly or being unable to find legal grounds upon which to base his actions that he did not even write an opinion, Judge Hobson ruled that the justice had a "right to" put the child in "the most advantageous place" while its mother was confined.

For Baby's "Best Interest"

Contending that the alternative of separating the child from its mother might not have been in the baby's "best interest," Judge Hobson said that on the basis of the law and evidence in the case, he would have been compelled to set aside the verdict had a jury awarded damages to the child.

Brushed aside in Judge Hobson's decision in upholding the demurrer, according to some legal authorities, was that not only the child, but its mother as well, had legal grounds upon which to base a damage suit on the basis of "cruel and unusual punishment."

This contention, according to these authorities, is based on the fact that no white woman or child has ever been placed in the detention cells under police court, and the mere fact that Mrs. Jackson and her child were placed therein was ipso facto cruel and unusual punishment.

Courts Must Be Fair

No court, they assert, can maintain its integrity or lay claim to legality for its acts unless its rulings in similar crimes or civil cases follow a definite pattern, adding that such rulings must be tempered only by the enormity of the crime or the circumstances surrounding it.

They hold that any consistent pattern indicating that the court has more than one standard of justice, such standards being based on class or other considerations has the effect of nullifying the soundness and legality of its opinions.

Sat. 7-26-47

The suit against the police court justice followed his action in placing the 2-month-old child in the lockup with its mother May 7 after she was convicted by him on charges of unlawful cohabitation and placed under a $300 bond for four months.

Says "It Won't Hurt Baby"

The mother being unable to post bond immediately, her attorney asked the jurist to permit her to remain in the courtroom until a bondsman could be secured. Justice Jewett refused the request and declared, "It won't hurt the baby" to be locked up in the cell.

After a stay of an hour or more in the basement detention quarters of police court, the child was released to a friend of the mother's who was summoned to the courtroom by her attorney and bond was arranged later in the day for the mother's release.

No precedent for upholding the demurrer could be found in the

that the child was too young to know it was being placed in jail and, as a consequence, was not conscious of any loss of freedom or any injury to its character or reputation.

Challenging the contention of the defense that the confinement of the child's mother, rather than of the police court justice," that caused the child to be confined, pointing out that she brought it into court knowing that she was a ing of the baby.

City Attorney Elliott Drinard, who represented Justice Jewett, asserted that "it was an act of kindness, courtesy or friendship to be against its will.

Proof Up to Jewett

"Anything other than an act of is presumed to be against the will of an infant," the attorney asserted that the admitted fact of the imprisonment placed upon the justice the burden of either disproving or justifying the jail.

Mr. Drinard contended further that the confinement was not a proven fact, its duration was not material and that any uncharitable act against an infant or an incompetent who was unable to give its consent to be against its will.

Mr. Carwile, who as not agreed that the single precedent found was a case tried in England more than 200 years ago.

Precedent Later Nullified

That case involved the holding of a boy for tuition owed by the boy's parents, according to the attorney. Even that ruling was reversed by the decision in a similar case 100 years later, according to Mr. Carwile.

Sat. 7-26-47

13a 1947

Dr. Wesley Wins Court Decision

Beat Dispatch
Okla. City, Okla. Sat. 8-30-47

WILBERFORCE, O. — (ANP) —Judge Frank L. Johnson of the court of common pleas, Greene county, Ohio, dissolved a temporary restraining order, Tuesday, insofar as it "would prevent Dr. Wesley from acting as president of the college of education and industrial arts, Wilberforce.

The court decision resulted from a petition by the Wilberforce board of trustees, Bishop Reverdy C. Ransom, chairman, to restrain Dr. Wesley from acting as president after the board had summarily dismissed Dr. Wesley.

The decision established Dr. Wesley's right to continue as president of the college of education and industrial arts. Members of the board of trustees of the college of education and industrial arts regard the decision as a distinct victory. Sat. 8-30-47

The attorney general of Ohio acted as defense counsel. A demurrer presented by the attorney by the attorney general to the petition denied the allegations and in particular that Dr. Wesley was attempting to act as president of Wilberforce university, a church corporate institution.

Judge Refuses To Oust Negroes In White Area

Courier
Pittsburgh, Pa.

RICHMOND, Va.—Taking cognizance of several restrictive covenant cases scheduled to be heard by the U. S. Supreme Court duirng its present sitting, Judge Miller of the Law and Equity Court here has refused to grant an injunction sought to oust a Negro family from their home in a so-called "white" neighborhood. Sat. 11-8-47

The ouster was sought against Samuel Allen and his wife, who bought a home in the Church Hill section, and rented it to another Negro family. Whites sought their ejection on the grounds of restrictions inserted in all deeds in that neighborhood in 1900. Judge Miller decided against awarding the temporary injunction asked, because the character of the neighborhood has changed so as to render the restriction unnecessary.

Mother of 7 Loses Property Rights in La. Because Husband Is White

13a Afro-American
Baltimore, Md. Sat. 11-15-47

Court of Appeals Voids Union, Upholds Man's Right to Sell Home Without Wife's Consent

By JOHN E. ROUSSEAU JR.

NEW ORLEANS—Because marriages between colored and white persons are illegal in Louisiana a woman who marries a white man and accumulates property cannot be protected by the law governing its sale, the Louisiana Court of Appeals ruled Monday against Mrs. Azelia B. Rice, mother of seven children.

The opinion, handed down by Appellate Judges Charles Janvier and Richard McBride, upheld a judgment rendered on Apr. 25, in favor of Mrs. Helen Ryan, who purchased property from Tony Rice, estranged white husband of Mrs. Rice, and who sought to have Mrs. Rice evicted.

The judgment ordering Mrs. Rice of Killona, St. Charles Parrish, to vacate the premises was returned in 24th Judicial District Court last April and Mrs. Rice, through A. P. Turcaud, her attorney, brought the case to the State Court of Appeals. Sat.

Ordered to Move 11-22-47

Mrs. Ryan purchased the property from Rice on Oct. 7, 1946 and ordered Mrs. Rice to move. On Feb. 6, 1947, Mrs. Ryan filed a suit for a rule against Mrs. Rice asking her ot show cause why she should not be dispossessed from the property.

Speckman Upholds Race Segregation In Use of City Parks

Courier-Journal
Louisville, Kentucky.
Sat. 12-6-47

Dentist Loses Suit to End Restrictions At Golf Courses

Dr. P. O. Sweeney yesterday lost his Circuit Court suit to open City park golf courses to Negro golfers.

Judge Lawrence F. Speckman ruled that the Negro dentist was seeking a social and not a political right in trying to play golf on courses now restricted to whites. He said that since the United States Constitution was amended to prohibit discrimination among races, the courts had made distinctions between social and political rights.

Dr. Sweeney also had sued to force the Iroquois Amphitheatre to admit Negroes.

Judge Speckman dismissed this part of the suit last summer on a technicality. He referred to it briefly in his opinion.

Appeal Is Planned.

The attorneys who brought the suit, Alfred Carroll and James A. Crumlin, said they would appeal the decision.

"We will go all the way to the United States Supreme Court," Carroll said. They were aided here by an attorney for the National Association for the Advancement of Colored People.

"Social equality between persons of the white and colored races or in fact between persons of the same race cannot be enforced by legislation or by the courts," Judge Speckman wrote, "nor can the voluntary association of persons of different races be constitutionally prohibited by legislation or the courts . . ."

Says Right Not Denied.

He said the best solution was separate facilities. The Amphitheatre, he said, was built by whites for whites and he said there was nothing in the suit to indicate Negroes had sought similar permission to thus use a park set aside for them. Nor, he said, was there anything to show that Negroes had been denied the right to build a golf course on parks they use.

"If that request had been made and refused," he said, "it is the opinion of this court that the petition would have stated a cause of action."

Judge Speckman wrote an opinion of more than 6,000 words. He said there were technical defects which would have permitted him to dismiss the suit. He said the court could "have evaded the responsibility" of deciding the merits of the case, but it "has no intention of so doing."

Studied Higher Courts.

The suit by Dr. Sweeney was against T. Byrne Morgan, director of City parks and recreation. It sought to force him to amend a policy that whites use some parks and Negroes others.

The judge said he had studied carefully what higher courts had said about Negro rights and illustrated by decisions holding it wrong to exclude Negroes from jury service, deny them the right to vote in primary or general elections, deny the right to equal education, and similar essential rights.

"There is a clear line of demarcation," Judge Speckman wrote, "between political equality (such as the right to serve on juries, the right to vote, to hold and sell property, to earn a livelihood, to secure an education) and social equality."

Denies Reflection On Race.

Even laws forbidding marriage between the Negro and white races have been ruled valid, he said.

"It is obvious," wrote the judge, "that the rights attempted to be secured in this case are social and not political; that the plaintiff seeks to commingle with members of the white race in the enjoyment of summer opera and to play golf with white persons in a park set aside for persons of the white race. To grant the relief which the plaintiff seeks would compel white persons to associate with colored persons, whether it were to their pleasure or not.

"This would be an infringement on the rights of white persons who would object to being compelled to commingle with colored persons. This in no way is a reflection on the members of the colored race, for they have among their number many who have honored their race by their contribution to the higher arts and sciences; but the realistic fact remains 'like attracts like' and it is just plain human nature for persons of the same tastes and desires, whether they be black or white, to associate together for the purpose of enjoying themselves to the best advantage. . . "

Says Segregation Upheld.

Sat. 12-6-47

The judge said to grant Negroes a right by law to play golf with whites would open up the courts to everybody who wanted to move into a different social sphere. He said if by forcing Negroes into public places whites were forced out the "net result would be the right to the enjoyment of parks would be denied to the white race and the process would be continued infinitum."

He said Kentucky law and Kentucky courts had upheld segregation as best for both white and Negro people. He quoted at length the decision of former Appeals Judge E. C. O'Rear upholding a law that forced Berea College to quit teaching Negroes and whites together, and from other Court of Appeals decisions, as late as 1930, holding valid some of the separate-use regulations against which Dr. Sweeney complains agout City parks.

Judge O'Rear, he said, was sustained by the U. S. Supreme Court. Courier - Journal

Justice Enforces Segregation Law

Baltimore, Md.
Richmonder Refused
Sat. 12-6-47
to Move at Concert

RICHMOND (NNPA) — Police Court Justice Carleton E. Jewett, hearing

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Justice Jewett commented, "We
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"Georgia Justice"

Sun. 12-21-47 13a

Georgia form of Justice received a scorching rebuke Thursday by Judge Samuel Weiss of the common pleas court of Allegheny County, in his refusal to honor a request for extradition of James Moreland, 26-year-old Butts County, Georgia, Negro, who fled a prison hospital after serving three years of a 12-year term for a $20 burglary.

"Until the time comes. . .when all men are considered equal. . .regardless of race, color or creed. this court cannot come to any conclusion but James Moreland will suffer death by torture, lynching or murder upon his return to Georgia," Judge Weiss declared. Daily world

Of course, Georgians do not take kindly to this criticism of their courts of law. We could wish personally that it be different. Nevertheless, the bare facts are that Negroes do not enjoy equality before the law in Georgia or in the South. They do not enjoy equality of privilege neither are they accorded equality of job employment and pay. Atlanta, Ga.

In reaching his decision, Judge Weiss, no doubt, was guided by the celebrated Walton County multiple lynchings of 1946; by the slaying of eight Negro prisoners in Glynn County, together with the hundred odd cases of police brutality and other forms of violence. It is difficult to see how the judge could ignore these glittering wrongs, sanctioned by tradition and by law is all too many cases. He says:

"Enlightened public opinion must condemn as cruel and unusual punishment the action of Georgia authorities in chaining prisoners. . .in compelling them to work at hard and painful labor from sunrise to sunset. . .in beating and shooting them. . .in placing them in unlighted holes in the ground, and on occasion murdering them in cold blood."

Georgians themselves are responsible to bring about a change in this sort of justice. To fuss and fume at Northern jurists and other interested persons is to beg the question. All that is needed is that the courts will administer the law impartially to all citizens, the poorest and richest alike. Jurors have a great responsibility too. To refuse to convict a white man for lynching or killing a Negro is to continue to invite adverse criticism from outside sources.

TEXAS COURT SAY 'NO!' 13a

Defender. Sat. 12-20-47

AUSTIN, Tex.—The Texas Third Court of Civil Appeals upheld a decision denying Dr. Everett H. Givens, local dentist, an order to force the University of Texas to establish a Negro branch in Austin and permit the colored unit a share in the white school's huge endowment fund which is now $67,614,329.

13b 1947

Judge Upholds Racial Writs, Blasts Ideas

Atlanta, Ga.

CHICAGO,— (NNPA)— Judge Robert E. Crowe of Superior Court last Friday upheld a restrictive covenant barring colored persons from occupying a South Side hotel but at the same time declared that such covenants are repugnant tothe Declaration of Independence, the Constitution. . . . and the real American concept of liberty."

In relying on a precedent set by another judge earlier in the same case, Judge Crowe, in his opinion, said:

"For our court to now uphold that a covenant may be entered into by owners of property which would deprive any citizen of his right to build a home and live in any portion of our city, and restrict him by such covenant to homes in the slums, along railroad tracks or in factory districts because of his religion or color, to me is repugnant to the Declaration of Independence, the Constitution of the United States, and the real American concept of liberty as understood by us.

HYPOCRITICAL NATION

"To adopt the other view as settled public policy of this country would damn us as the most hypocritical nation in the world."

The order will force twenty-two colored persons to vacate the hotel in thirty days. However the hotel attorney Loring B. Moore, said he would appeal the case to the appellate court.

When the case was first brought, in 1945, by two property owners in the area, Superior Court Judge P. McGoorty, sitting as a chancellor, overrulled a motion to dismiss the suit, holding that the restrictive covenant did not violate the Constitution.

Subsequently, the case was referred for thirteen months to a master for chancery, and when it came up for trial it was assigned to Judge Crowe.

Judge Crowe said last Friday "Unfortunately, I cannot review and set aside the decision of my colleague."

25 Tenants Evicted Under Covenant Pact

CHICAGO — (ANP) — Twenty-five Negro tenants lost the fight to remain residents of a building on the south side here Friday when Judge Robert E Crowe of Superior Court upheld a restrictive covenant agreement and ordered them evicted.

In making his decision, the first of its kind in the state since 1937 the judge said he regarded the pact as "illegal" and "un-American," but that he was bound to uphold it because of a previous ruling by Judge John P. McGoorty, also of superior court.

Woman Wins Bus Segregation Case

(Pittsburgh Courier Press Service)

RICHMOND, Va.—A writ of error last week was granted in a bus segregation case by the Virginia Supreme Court as Mrs. Lottie E. Taylor won a victory over jim crow in the Old Dominion.

Mrs. Taylor had appealed from a $5 fine imposed on her when she was forcibly removed from a bus in Fairfax, Va., Sept. 20, 1946.

A native of New Jersey, Mrs. Taylor was traveling between Washington, D. C., and Madison City, Va., when she was arrested.

APPOINT CHICAGOAN MASTER IN CHANCERY

The first Negro Master in Chancory in Chicago and Evanston will be named to the Superior Court in the person of Major James A. McLendon, 417 E. 47th st., a veteran of five years in the army, it was learned this week as former Judge John P. McGoorty was sworn in as Master of Chancory. McGoorty was retired from the bench Dec. 1, 1947. McLendon will be sponsored by either Wilbur F. Crowley or James F. McDermott. It hasn't been decided yet who the rest of the Masters in Chancory will be. McLendon has been slated for one of the jobs of Master in Chancor to hear divorce cases under a new law to become effective Dec. 1, but the Supreme Court held the law to be unconstitutional a few days before.

Suit Against AME Body Dismissed in New York

Afro American, Baltimore Md

Sat. 12-20-47

Cleric Had Made Agreement With Sims; Contract for Funds, Post Ruled Invalid

NEW YORK (ANP)— Several years' litigation involving the suit of the Rev. Charles H. Taylor against the New York Conference of the AME Church, came to an end Wednesday when the New York Supreme Court declared invalid a contract made by former Bishop David Sims with the Rev Mr. Taylor.

According to the arrangement between Sims and Taylor, the former was to give the latter $5,700 in cash and an appointment as missionary at $100 a month for a four year period.

Taylor, in turn, agreed to drop a court suit against Sims for an accounting of the funds of the New York Conference, according to Bishop Wright.

Termed Action "Blackmail"

When Bishop Wright took over he conference, he refused to pay Taylor any money and told the annual conference that he would not be blackmailed into using the conference funds as had been the case before.

"I regard the whole Taylor proceedings as an effort to blackmail former Bishop Sims and to coerce the conference into paying monies that are not due the Rev. Mr. Taylor," said Bishop Wright.

Pointing out that the case was decided in less than an hour, Bishop Wirght said further:

Wright said further:

"There is a gradual clearing up of the New York situation, and I hope by Easter to have it under complete control.

"The Supreme Court has given the entire supervision over New York to me and the appeal of former Bishop Sims has fallen down. The rebellious ministers who endeavored to hold on to churches have one by one, been repudiated.

Plans for Future

"The court ousted the Rev. Mr. Thompson from Bethel; the Rev. Sam Freeman from St. John; the Rev. Mr. Houston from Metropolitan; the Rev. Mr. Lowe from Salem, N.J.; and the Rev. Mr. Y. L. Sims from Atlantic City.

"Only two small places are now in court and I expect them to be cleared up soon."

Then expressing a desire to work out a construtive program that will appeal to the constituency and put the conference on a sound financial basis, he concluded:

"I met the ministers last Monday, and one thing we agreed upon was to double New York' membership within 12 month It can be done."

13b 1947

Va. High Court Grants Writ of Error in Bus J.C. Case

13b Afro-American 1-18-47 Sat. Baltimore, Md.

RICHMOND, Va. — Granting a writ of error on Jan 9 to Mrs. Ethel New of Cumberland (Ky.), the Virginia Supreme Court of Appeals opened the way for a decision outlawing the practice of segregating colored passengers in intrastate travel in Virginia.

Mrs. New brought suit for damages of $10,000 against the Atlantic Greyhound Corporation, and W. N. Smith, Lynchburg police officer, after she was allegedly ejected from a Greyhound bus in the Virginia city.

The suit was filed in Law and Equity Court here by Hill, Martin and Robinson, local NAACP lawyers, previous to the U.S. Supreme Court decision in the Irene Morgan case. 1-18-47 Sat.

An expectant mother at the time, Mrs. New charged that she suffered a miscarriage as a result of the altercation on the bus.

Judge Upholds Rules

After arguments in the Law and Equity Court, Judge Brockenbrough Lamb instructed the jury that Mrs. New could be ordered to move to a rear seat, provided it offered the same comforts, and that the bus company had a rule to that effect.

Martin A. Martin, of counsel for the plaintiff, contended before the jury that the rear seat of a bus offers fewer comforts than others in the vehicle.

He pointed out that it is directly over the motor and can not be adjusted for comfort, and that Mrs. New was within her rights in refusing to move.

Counsel for the bus company argued that the rear seat is as comfortable as any other, and that the opinion of the Virginia Court of Appeals in the Irene Morgan case was reversed by the U.S. Supreme Court only insofar as it affects interstate travel.

Says Cases Not Similar

The Morgan case ruling was cited by counsel for the bus company, although counsel for Mrs. New attempted to impress upon the jury and the court the fact that the case arose before he Morgan case decision and was not based thereon. 1-18-47 Sat.

Mr. Martin admitted that Mrs. New was not an interstate passenger and that the suit would have no bearing on interstate travel, but said it would test the validity of Virigina's statute requiring separation on intrastate passengers on common carriers.

He asserted that the 1946 Virginia statute making the refusal of any person to move when ordered to do so by a bus driver," disorderly conduct," is unconstitutional.

He declared that the statute can not be construed as a segregation law and, if so used, is an unlawful delegation of the powers of the State to the bus company.

Ejected in Lynchburg

The plaintiff was en route to her home in Kentucky, but had purchased a ticket in Blackstone to Appalachia, Va., and had arrived at Lynchburg aboard the Greyhound bus when ordered by the driver to move back from the second seat from the rear to the rear seat.

She informed the driver that she was sick, according to her petition for the writ of error. He called the police and officer Smith ejected her from the bus.

In the event of an adverse opinion by the Virginia high court, it was indicated Friday in a conversation with attorneys for the plaintiff, the issue will be carried to the U.S. Supreme Court.

Bus Co. Upheld

In another case involving segregation in interstate travel, the Fairfax (Va.) Circuit Court, on the same day, Jan 9, upheld a bus company's right to enforce its own regulations providing for the segregation of passengers.

Affirming an earlier decision of the county's trial justice court Judge Paul E. Brown fined Mrs Lottie Taylor, (NYC), $5 and costs on a charge of disorderly conduct arising from her refusal to move to a rear seat on a Virginia Stage Lines bus last Sept. 12.

The same penalty was imposed in the previous case.

In denying the woman's appeal, Judge Brown upheld the prosecution's contention that the company's own regulations providing for passenger control could be enforced, despite a ruling of the Supreme Court last June 3, invalidating Virginia law requiring segregation of passengers on buses in interstate travel.

According to testimony at the trial, the defendant refused to occupy a rear seat at the request of the driver, James M. Garrett, when she boarded the bus in Washington.

He obtained a warrant for her arrest at Fairfax, where she was removed from the bus by a county policeman.

Appeal Planned

The case was the first of its kind to be tried in Virginia since the Supreme Court ruling in June. 1-18-47 Sat.

James H. Rabey, Alexandria attorney who represented Mrs. Taylor in her appeal, indicated he would appeal the case further.

Insurance Firm Wins Florida Court Case

Chicago Defender Chicago, Ill. Sat. 8-23-47

JACKSONVILLE, Fla.—(ANP)—The Afro-American Life Insurance Company has just won a sweeping and complete decision in the Florida Supreme Court when that body handed down a verdict upholding in its entirety the purchase some years ago of the business, properties and assets of the People's Industrial Insurance Company of this state. Sat. 8-23-47

The purchase had been made through the intervention of the Florida State Insurance Department when the industrial became impaired but B. C. Vanderhorst and others of the old organization were dissatisfied and contested the matter over a period of years.

The plaintiffs were represented by Attys. Turner and Beggs, prominent white Jacksonville lawyers. The Afro-American was represented by Atty. J. Leonard Lewis, executive vice president of the company, and assistant state's attorney, Howard F. Bailey.

A ROTTEN SUPREME COURT DECISION

Chicago Defender Chicago, Ill. Sat. 8-16-47

For us it is getting so that the major issue inside the United Nations Organization is the question of housing accommodations for its working membership. We refer to the test case that has been going on about the Metropolitan Life Insurance Company's policy of excluding Negroes from its various housing projects in New York, a couple of which are scheduled for use by UNO people.

Now the news comes that a New York Supreme Court Justice, Felix C. Benvenga, has upheld the Metropolitan. He ruled that the big insurance company could exercise the usual powers and functions of a privately-owned and controlled apartment house, and that therefore it could select its tenants upon any basis which in its judgment is "most likely to insure the success of the project and the success of its investment."

There you have it out of the horse's mouth. Here is your economic base, your greed motive for discrimination in housing—and sustained in the liberal state of New York by a Supreme Court Justice.

What is happening? Is the tide of progress running backward everywhere? Are judges holding their seats in the interest of property rights—or human rights? Sat. 8-16-47

It looks to us as if the property rights crowd, and the Metropolitan, and its conservative Republican and Democratic stockholders, have taken a dangerous step in the direction of 1840. This decision is a setback to progress. It is a go-ahead signal to neo-fascism in America.

BUS JIM CROW UPHELD

Must Occupy Back Seat, Va. Supreme Court Says

Afro-American

STAUNTON, Va. — Virginia's bus segregation laws, as they affect intrastate passengers, still stand despite their invalidation by the U.S. Supreme Court in the Irene Morgan case, according to a ruling handed down here last week by the Virginia Supreme Court of Appeals.

The appelate court upheld judgment of Richmond's Law and Equity Court, Part 1, in a bus segregation case in which Mrs. Ethel New of Lynch, Ky., was the plaintiff and the Atlantic Greyhound Lines and W. N. Smith, a Lynchburg police officer, were defendants. 9-13-47

(Some legal authorities contend that since Virginia's bus segregation laws make no distinction between interstate and intrastate passengers, over the latter of which the State would have control, the Supreme Court's decision in the Morgan case invalidated these statutes.) Baltimore, Md.

Tried by All-White Jury

The damage suit brought by Mrs. New was heard in the local court June 12, 1946, at which time an all-white jury denied her plea for damages against the Greyhound Lines and the policeman.

She charged in her bill of complaint that she boared a Greyhound bus at Blackstone, Va., after purchasing a ticket to Appalachia, also in Virginia, and was transferred to another bus a short distance out from Blackstone, in which all seats were taken.

Upon arriving in Lynchburg, she asserted ,a number of passengers left the bus and even though she seated herself on the second seat from the rear of the vehicle, the driver ordered her to the back, an action not necessary to separate the races she contended.

Driver Calls Policeman

When she refused to obey the orders of the driver, Mrs. New charged, he summoned the police officer who dragged her from the bus. She suffered a miscarriage a short time after the incident, according to the plaintiff, who sought $10,000 damages.

Georgia Judge Rules Negroes Must Vote

Chicago Defender

LUDOWICI, Ga. — "There is no room in this state for some Georgians, and anyone who pr... poison and hatred among the races," ...right of Negroes to

...ge M. Price of the Atlantic Judicial Circuit, in ...re last week to the grand jury of Long County ...urt. Ill.

... the Supreme Court white primary ... blasted as "tommy ... ruling which upheld it. 9-20-47

Declaring himself a "personal ... supremacy stand of ... friend of the late Gov. Eugene ...s, and defended the Talmadge, Judge Price denounced ...es to vote. He cited the unlawful acts of his son. Her-

man Talmadge, in trying to take over the Georgia governorship after his father's death. He also stated that he thought Eugene Talmadge would have been "ashamed" of his son's actions, had he lived. 9-28-47

The judge took a little of the sting out of his defense of Negro voters to his white listeners by adding that Georgia had always been run by whites and Negroes were only seeking the right to help elect whites to office. He added that no Negroes were themselves seeking office. He called attention to the 13th and 15th Amendments to the Constitution which abolished slavery and gave Negroes the right to vote respectively. As a state official, he added, he would uphold that legal right.

Jurist Overrules Housing Covenant

Afro-American

Dismisses Suit to Oust Wounded Vet from Home

Baltimore, Md.

LOS ANGELES—Superior Judge Stanley Mosk last week dismissed a suit brought by the Rev. W. Clarence Wright, pastor of the fashionable Wilshire Presbyterian Church, to oust Major Frank L. Drye, Purpde Heart veteran of Wrld Wars I and II, nd tawo other colored families from their homes on South Arlington Ave. Sat. 11-1-47

The decision was the second of its kind to be rendered in Los Angeles Superior Courts, he first having been given by Superior Judge Thurmond Clark in the famed Sugar Hill case in December, 1945.

Attorneys Loren Miller and Harold J. Sinclair represented the defendants.

Race No Measure of Worth

In the memorandum announcing his decision, Judge Mosk stated:

"Our nation has just fought a war against the Nazi race superiority theory. One of these defendants was in that war and is a Purple Heart veteran.

Afro-American

"This court would indeed be callous to his Constitutional rights if it were to permit him to be ousted from his own home by usink "race" the measure of his worth as a citizen and neighbor.

"The alleged cause of action here is thus inconsistent with the guarantees of the Fourteenth Amendment to the Constitution."

Baltimore, Md.

Used Pulpit as Soap Box

Affected by the decision is a tract of more than 700 lots in the southwest section of the city in which the Rev. Mr. Wright had been the moving spirit in attempts to prevent colored occupancy.

He was one of the leaders of and chief contributors to a so-called Neighborhood Improvement Association that backed and financed the suit. Using his church as his forum, the Rev. Mr. Wright said that it was "un-Christian" of colored people to seek homes in his part of the city. Sat. 11-1-47

All Efforts Futile

Frantic efforts of Presbyterian lay and clerical leaders to persuade the minister to abandon the lawsuit were unavailing, and he took the lead in an attempt to procure a temporary injunction to prevent the defendants from occupying their homes during the pendency of the action.

The covenant forbade occupancy by any "person not of the white or Caucasian race."

In addition to Major Drye, who has a permanent total disability rating because of far injuries, defendants included Mr. and Mrs. Lee V. Steward and Mrs. Blanche Strickland, widow of Dallas insurance executive.

"Un-Americanism" at Worst

Further condemning the action, Judge Mosk said:

"There is no allegation and no suggestion that any of these defendants would not be law abiding neighbors and citizens of the community. The only objection to them is their color and race.

"We read columns in the press each day about un-American activities. This court feels that there is no more reprehensible un-Americanactivity than to attempt to deprive persons of their own homes on a 'Master Race' theory.

"Mink Slide"

No New Trial In Riot Case

The Courier

Pittsburgh, Pa. 13-L

NASHVILLE, Tenn. — The Tennessee Supreme Court Saturday denied a new trial for Lloyd Kennedy, 21, sentenced to the penitentiary in connection with racial disturbances in Columbia, Tenn., early last year. Sat. 10-25-47

The court, holding its fall session, denied a petition by Alexander Looby, Nashville attorney representing Kennedy, for a rehearing on Kennedy's case in an opinion by Associate Justice Alan Prewitt.

FIVE-YEAR TERM

Kennedy was sentenced to not more than five years in the State Penitentiary last Nov. 18 after a Maury County Criminal Court found him guilty of assault with intent to commit murder in the second degree in connection with the wounding of a State highway patrolman in the "Mink Slide" section of Columbia, Feb. 26, 1946.

Missouri High Court Upholds Conviction Of Negro's Slayer

Defender, Chicago, Ill.

Sat. 10-25-47

JEFFERSON CITY, Mo. — The two-year manslaughter sentence given Charles W. Shilkett, 38-year-old wealthy white sportsman of St. Louis County, in the fatal shooting of Logan McDaniels, aged Negro groom in August 1945, was upheld by the Missouri Supreme Court last week. 10-25-47

Shilkett, who has been at liberty on bond pending the outcome of his appeal to the state's highest court, was found guilty in June 1946, by a jury in Circuit Judge Amandus Brackman's court at Clayton after one and one half hours of deliberation.

He is expected to surrender and begin serving his sentence as soon as notification of the supreme court ruling is received.

McDaniels was shot at the Westwood stables on Ballas rd., near Ladue, where he was employed. Witnesses said Shilkett had been drinking and had fired shots during the day at several other persons. The sportsman's defense was the shooting was accidental and that at the time he fired the .38 calibre revolver he did not know McDaniels was in the stable.

Jurist Scores Pastor's Suit As Un-American

13-L

Defender

Chicago, Ill.

Declares Ouster Of Vet, Others Is Unconstitutional

Sat. 11-1-47

LOS ANGELES — Ruling that court enforcement of race restrictive covenants would violate provisions of the Fourteenth Amendment and branding attempts at enforcement as "reprehensible un-American activity," Superior Judge Stanley Mosk last week dismissed a suit brought by the Rev. W. Clarence Wright (white), pastor of the fashionable Wilshire Presbyterian Church, to oust Major Frank L. Drye, Purple Heart veteran of World Wars I and II, and two other Negro families from their homes on South Arlington ave.

The decision was the second of its kind to be rendered in Los Angeles Superior Courts, the first having been given by Superior Judge Thurmond Clark in the famed Sugar Hill case in December, 1945. Attorneys Loren Miller and Harold J. Sinclair represented the defendants.

Defender

Chicago, Ill.

Cites War's Purpose

"Our nation has just fought a war against the Nazi race superiority theory," said Judge Mosk. "One of these defendants was in that war and is a Purple Heart veteran. This court would indeed be callous to his constitutional rights, if it were now to permit him to be ousted from his own home by using 'race' as the measure of his worth as a citizen and neighbor. The alleged cause of action here is thus inconsistent with the guarantees of the Fourteenth Amendment to the Constitution."

Affected by the decision is a tract of more than 700 lots in the southwest section of the city in which the Rev. Wright had been the moving spirit in attempts to prevent Negro occupancy. He was one of the leaers of and chief contributors to a so-called Neighborhood Improvement Association that backed and financed the suit. Using his church as his forum, the Rev. Wright said that it was "un-Christian" of Negroes to seek homes in his part of the city.

Defender, Chicago, Ill. Sat. 11-1-47

Pastor Seeks Injunction

Frantic efforts of Presbyterian lay and clerical leaders to persuade the minister to abandon the lawsuit were unavailing and he took the lead in an attempt to procure a temporary injunction to prevent the defendants from occupying their homes during the pendency of the action. The covenant forbade occupancy by any "person not of the white or Caucasian race."

In addition to Major Drye, who has a permanent total disability rating because of war injuries, defendants included Mr. and Mrs. Lee V. Steward and Mrs. Blanche Strickland, widow of a Dallas insurance executive. 13-L

Text of Decision

The text of Judge Mosk's memorandum decision follows:

"There is no allegation and no suggestion that any of these defendants would not be law abiding neighbors and citizens of the community. The only objection to them is their color and race.

"We read columns in the press each day about un-American activities. This court feels that there is no more reprehensible un-American activity than to attempt to deprive persons of their own homes on a 'Master Race' theory.

"Our nation has just fought against the Nazi race superiority theory. One of these defendants was in that war and is a Purple Heart veteran.

"This court would indeed be callous to his constitutional rights, if it were now to permit him to be ousted from his own home by using 'race' as the measure of his worth as a citizen and neighbor.

"The alleged cause of action here is thus inconsistent with the guarantees of the Fourteenth Amendment to the Constitution. The demurrer is sustained without leave to amend."

Supreme Court Upholds Damage Suit for $2500

Courier

Pittsburgh, Pa. 13-L

Sat. 11-15-47

MONTGOMERY, Ala.,—A circuit Court decision that awarded $2,500 damages to Willie Latham, 58-year-old Brimingham woman for injuries suffered when a streetcar jumped the track in Roebuck in February, 1945, was upheld last week by the State Supreme Court. 11-15-47

Court records showed the streetcar was left unmanned by the operator and jumped the tracks after it rolled down the street. Witnesses said Mrs. Latham was thrown from the streetcar as it rounded a curve.

Judge Ignores 'Hate' Pact; Refuses to Separate Family

Afro-American

Baltimore, Md. 1-18-47

CHICAGO—Because he did not feel that his duties empowered him to separate a mixed family with a child, Superior Court Judge McWilliams recently refused to issue an injunction upholding a restrictive covenant covering an apartment building here.

Neighbors had sued to effect removal of Mrs. Christine Randall Gassi, colored blues singer, from the first-floor apartment of the building, acquired by her husband of Italian descent in June, 1946, for $11,000.

"What will be done with the child if this is carried through," Francis Heisler, the defendants' attorney asked? Stating that under terms of the covenant colored servants could reside in the building, Heisler further queried, "Must this man declare his wife to be his servant in order that they might live together?"

Misdemeanors And State Law

Pittsburgh Courier, Columbia, S. C.

The South Carolina Supreme Court, ruling in a case ingories. [illegible] which two highway patrolmen had shot at a fleeing truckwhen ca[illegible] in Darlington county they had suspected of illegal use of arrests spotlight, held that officers have not the authority to shootulert la[illegible] after or even injure or kill persons suspected of a misde-been fi[illegible] a shor in trying to halt an escape from arrest. 13-L

The ruling opens a widefield for legal action, especially among Negroes. Time and again we have noted reports in which Negroes have been shot to death or seriously injured by officers while fleeing the scene of gambling games, fighting in public and even being disorderly in other categories. In a fuller sense, an illegal act is a misdemeanor only when carried out before the eyes of an officer. But ofttimes arrests among Negroes have been made on "tips." Without smart lawyers at their sides, many times the suspects have been fined and punished.

Court Contends Restrictive Writs Private'

Daily World
Atlanta, Ga.
Sat. 1-18-47

Says They Must Be Enforced By Existing Laws

LANSING, Mich.—(ANP)—Restrictive covenants are in the nature of a "private contract" was the ruling handed down by the Michigan Supreme court in the Snipes vs. McGhee legal wrangle here last Tuesday.

The case centered around the legal rights of the defendants, Orshell and Minnie McGhee, to live in a home they bought in Detroit in a section which restricts the use and occupancy by persons other than whites. Benjamin J. Snipes and his wife, Anna, and several families in the neighborhood, all white, were the plaintiffs.

ENFORCEMENT UPHELD

In characterizing the restrictions as "private contracts" the state court held that such restrictions must be enforced under existing laws. In addition, the court said that the defense's plea for a more liberal ruling did not enter into the case since it was "a plea for justice rather than argument for the application of established law." An 1861 opinion as to the meaning of "law and justice" was used to support the contention.

In light of this ruling, the Detroit branch of the NAACP, headed by the Rev. Robert L. Bradby, Jr., has announced that it will seek a reversal of the opinion in the U. S. Supreme court. NAACP has been financing the "no-restrictive covenants" fight. Sat.

"With the help of the citizens of Detroit, we hope to carry this fight on restrictive covenants to the United State Supreme court. We will use all the resources within our power to break this un-American, un-democratic discrimination against people who do not have Caucasian ancestors. It is a fundamental right of Negro citizens to live in decent homes," Rev. Bradby declared. 1-18-47

Mississippi Court OKs Death for Negro Convicted for Theft

Daily Worker
New York, N.Y.
Wed. 2-19-47

JACKSON, Miss., March 18.—The Mississippi Supreme Court today upheld the death sentence for a Negro convicted of robbing a store owner, but three justices denounced it as "a barbarous, cruel and inhuman sentence."

The three regretted they could find no error in a lower court ruling under Mississippi state law that permits capital punishment for armed robbery.

The doomed man, Howard White, 33, was convicted for his part in the robbery of C. C. Coen, 74, operator of a general merchandise store near Hazelhurst, Miss., in February, 1946.

In a separate opinion, Chief Justice Sydney Smith assailed the 15-year-old statute permitting capital punishment in such cases and said, "I hope I shall live long enough to see this blot on our criminal law, this evidence that something of the savage still lingers in us, erased by the legislature repealing the statute." N.Y.

Two other Negroes were charged with participating in the robbery. Virgin Smith received a life sentence and John Augustine received a death sentence but was saved on appeal. Wed. 2-19-'47

Unless other steps are taken, White must die in the electric chair April 18. Daily Worker

High Court Sets Colored Man Free

Journal & Guide
Norfolk, Va.

JACKSON, Miss. — (ANP— Freedom for another Negro involved in a shooting fracas with law enforcement officers was ordered last week by the Mississippi Supreme Court, which reversed a 10-year prison sentence imposed on L. T. Hubbard by a Smith county court. Sat. 6-21-47

The high court upheld a prison sentence for Johnny Craft, but ordered a reversal of a lower court's sentence of W. O. Craft, both of whom were involved with Hubbard in a gun battle last August with law enforcement officers. The trio returned the fire of Sheriff George Hawkins and several deputies after the officers fired on them on a Monday morning following a Sunday evening shooting in which they were not involved. Sat. 6-21-47

Michigan High Court Upholds Jimcrow Clause in Leases

Daily Worker
New York, N.Y.

LANSING, Mich., Jan. 7.—Because 80 percent of white owners of property on Detroit's near northwest side signed agreements not to sell to other than whites, the Michigan supreme court ruled Jan. 7 that a sale to Orsol McGhee and his wife, a Negro couple, is invalid. The court held that the 14th amendment of the federal Constitution, which gives all citizens equal rights under the law, does not apply because the restrictive covenants, as the discriminatory agreements are called, were merely contracts between private parties.

Strictly speaking, owners may sell to Negroes but the Negroes are not permitted under the covenants upheld by the court to occupy the property they buy. 1-30-47

Shocked by the reactionary ruling, progressive bodies are considering appeal to the U. S. Supreme Court. Entered in the case as friends of the court were the United Auto Workers (CIO) and the Detroit chapter of the National Lawyers Guild.

The Guild in its brief showed that such convenants are segregation, which in turn breeds slums and race riots. Daily Worker

The Bilbo-ites Receive A Salutary Reminder

Courier-Journal
Louisville, Ky.

THERE is reason to doubt that Senator BILBO approves of his State's Supreme Court today. It has ordered the release of a Negro convicted in an exchange of shots with a sheriff's posse. It says in effect that the code of common civil rights applies to Negroes as well as white persons. In Mississippi as well as elsewhere, it suggests, a Negro is not to be shot at, arrested or convicted on general principles. The law's protection covers everybody alike.

The record of the case in question follows a pattern familiar in areas where race consciousness thrives. Let's be plain and say in the South. The sheriff of Smith County, Mississippi, and a flock of armed deputies were looking into a previous shooting. A group of Negroes, breaking from a house as the posse approached, became the target for a fusillade. In an exchange of fire, four deputies were wounded. W. O. CRAFT, one of the fleeing group, was arrested, tried and sent up for 10 years.

But by what right, the appeals court asks, did the posse fire in the first place? There seemed to be no evidence in hand, no more than an impulsive suspicion, that the running men were the ones who were sought as being involved in the first affray. Smith County officialdom might give answer to the effect that the right is the right of local custom. Breaking down the doors of Negroes' homes and entering without warrant is a common enough occurrence, as was demonstrated also in Columbia, Tennessee.

But that is a violation of the law, and it occurs without authority, even when law officers do it. The law calls for due process—for warrants and arrests only when circumstances make suspicions definite. The court's conclusions in this connection would create no stir elsewhere. In Mississippi they come as a salutary reminder of American rights. One might stretch the point to make the rebuke apply to BILBO's incitements to keep Negroes from voting in Mississippi. Wed. 2-19-47

Legality of Racial Property Contracts Backed in Illinois

Black Dispatch
Oklahoma City, Okla.
Sat. 5-31-47

CHICAGO, — (ANP) — Racial property covenants were judged legal in Illinois last week by an opinion rendered by Mayor Goldberg, master-in-chancery of the Superior court.

Blasting defense arguments that the United States had ratified the United Nations charter and made other international commitments on a racial equality basis, Goldberg referred to a recent decision of the Michigan Supreme court that held treaties between sovereign nations are not applicable to contractual rights between U. S. citizens.

The fact that white persons may not want Negroes as neighbors may be "highly undemocratic, without good reason and without scientific basis," Goldberg said, but "in a system of free enterprise and property rights, plaintiffs and all other persons have the inalienable right to do as they see fit with their property within reasonable limits."

Goldberg submitted his report to lawyers in the important test case of George E. Tovey vs. Hyman Levy, former owner of a building at 412-21 W. 60th street; the Cadillac Hotel Corp., present owner; Joseph J. Allen, lessee and 18 Negro tenants. Tovey sued to enforce a restrictive covenant entered into by property owners in 1928. Sat. 5-31-47

Evidence in the case has been presented to Goldberg since Feb. 27, 1946, and his report will be submitted to Judge John P. McGoorty after objections by either side are argued.

Defense arguments were dicated upon a plan for justice based upon enlightened and liberal principles rather than upon an application of the principles of established law." Goldberg said.

Louisville R. R. Refused Retrial, Must Pay $800

Afro-American
Baltimore, Md.
Sat. 6-14-47

LOUICVILLE — The Louisville employee of the Chesapeake and Ohio Railroad company and that Nashville Railroad Company, he had influenced the verdict in or April 16 was ordered to favor of the men. Sat. 6-14-47
000 to two men who were The two awarded damages were dining car service, last James E. Stamps of Chicago and was refused a retrial by Cir- Ennis L. Powell of Charleston, W. court Judge Roscoe Conkling Va., who were en route from Nash- ailroad, in its motion for a ville to Cincinnati on March 17, rial, charged that the jury when the incident occurred. ejudiced. It said specifical- **Forced to Go Without Meals** one of the jurors was an **During the two-day trial, they**

revealed that they were forced to go without eating the entire trip because the only vacancy was in a section reserved for white passenger only.

The pair were repreented by Sidney A. Jones of Chicago and Charles W. Anderson Jr. and his associate Benjamin Chobe.

After the latest action, Mr. Anderson aid that the company has 60 days in which to file an appeal, but expressed doubt that it would do so. Sat. 6-14-47

Conviction of Negro Upheld

PM New York, N.Y. Fri. 6-27-47

NASHVILLE

The Tennessee Supreme Court upheld the conviction of Lloyd Kennedy, one of the more than 100 Negroes arrested following the February, 1946, racial disorders at Columbia, Tenn. Kennedy was convicted of assault with intent to commit murder and was sentenced to five years. Fri. 6-27-47

The appellant had asked reversal on the ground that Negroes did not serve on the jury.

Judge Says Defendant Has No Right To Mixed Jury Trial

St. Louis Argus
St. Louis, Mo.
Fri. 7-4-47

NASHVILLE, Tenn., June 27 — The Tennessee Supreme Court upheld Saturday the conviction of a Negro involved in last year's racial disorders at Columbia. It declared that Negroes "have no constitutional right to trial by a mixed racial jury."

Lloyd Kennedy was sentenced to five years for his part in the disorders in which two Negroes were killed and several whites wounded.

Justice Allan W. Prewitt said that Kennedy "had a fair and impartial trial." Fri. 7-4-47

"The right is that the race shall not be discriminated against in the selection of grand and petit juries," the court ruled.

Mich. High Court Upholds Covenant

Afro-American
Baltimore, Md.

DETROIT—(NNPA) — The fight on restrictive covenants passed another stage last week when the Michigan Supreme Court denied a rehearsing in the case of Sipes vs. McGhee, and NAACP attorneys filed intentions to carry the case to the United States Supreme Court.

Willis Grave, NAACP attorney, said that immediate action was needed to carry the McGhee case to the Supreme Court. Gravity of the situation was demonstrated by the disclosure by Samuel Gibbons, NAACP treasurer, that at least three neighborhood groups had formed anti-racial covenants since the Supreme Court decision on Jan. 7. Sat. 4-12-47

Danger also reared its head when Lloyd T. Chockley, Northwest Civic Association attorney, was quoted in the Ferndale News as saying, "This case affects every property owner in Michigan. If lost, there would be no legal means of maintaining the white character of any of our home areas." Sat. 4-12-47

2 Families Lose Cases Against Restrictions

Michigan Chronicle
Detroit, Mich.

The Michigan State Supreme Court last week upheld two restrictive covenants in cases involving Collins Reynolds, of 17927 St. Aubin, and Otis Sheldon, of 5325 Seebaldt. At the same time the court ruled that the Bob-Lo Excursion company has no legal authority to refuse service to Negroes.

The two cases were carried to the high court by Attorneys Willis Graves and Francis Dent of the Detroit Branch of the NAACP, who have been handling more than eight restrictive covenant cases in the Detroit area.

Hearing Set

The two set-backs in the cases of Reynolds and Sheldon came fast on the heels of the disclosure that the national office of the NAACP is to join with the local branch to carry the case of Sipes vs. McGhee to the United States Supreme court.

The court ruling on McGhee, which was handed down last January, upheld a restrictive covenant on Seebaldt. The U.S. Supreme Court ruling on the case will affect the cases of Reynolds and Sheldon. Sat. 4-26-47

Circumstances have changed the picture in the Sheldon case in that Mrs. Otis Sheldon died two weeks ago and Sheldon has sold his house to his wife's mother, who is white, thus nullifying further action.

Given 60 Days

Reynolds, his wife, and son, aged 9, have been ordered to vacate their home within 60 days. Their case has been dragging through the courts since 1943.

The Sheldon case was complicated because of the mixed racial character of the family. Sheldon, a Negro, was married to a white woman and was living in the home with her and her parents. The neighbors sued to prevent Sheldon from using the premises or even "coming upon the premises."

"Slap In Face"

The Rev. Robert L. Bradby Jr., in commenting on the two latest cases, "The Supreme Court of the state of Michigan in their decision last week have again slapped the 500,000 Negro citizens of Michigan in the face. They have again advanced segregation. They have stated further, by their decision that any group of people can bind in agreement, give in to their prejudice and hatred and say to another group, you must live where we tell you to live.

"The NAACP has to continue to file restrictive covenants until such time as we receive favorable decisions and are given equal rights with all other citizens of the country."

Bradby announced that the McGhee case is to be heard by the United States Supreme court before May 8. Sat. 4-26-47

"A Challenge"

The Rev. Horace A. White, chairman of the NAACP legal redress committee, declared, "The Supreme Court of Michigan has given a challenge to every Michigan citizen who loves democracy when it ruled that the Collins Reynolds family must get out of their home within 60 days. The Supreme court upheld the slavish restrictive covenant. This instrument is a device to keep Negroes and other minorities in a second class citizenship relationship to the rest of the nation.

"Collins Reynolds moved into his house more than three years ago. In the meantime more than 50 other Negro families have moved into the general vicinity. In fact there were Negroes living in the general vicinity before Reynolds moved into the section."

The question as to whether or not the Bob-Lo Excursion company has legal authority to refuse Negroes the use of their boats was also decided by the Michigan State Supreme court this week.

The court ruled that such action by the Bob-Lo Excursion company was in direct violation of the Civil Rights Statute and therefore illegal. This decision of the Michigan State Supreme court winds up a two year legal battle by the company to make legal its acts of discrimination against Negroes.

The original complaint in this case was handled by the Detroit Branch NAACP and prosecuted by Joseph L. Bannigan, former Wayne County prosecutor. The discrimination by the Bob-Lo Excursion company has been the most vicious type imaginable since in many cases it was directed towards children who were simply attempting to enjoy an excursion with their schoolmates or other friends.

In commenting on this decision, Reverend R. L. Bradby Jr., president of the Detroit Branch NAACP said: "It is hoped that the Bob-Lo Excursion company will accept this decision and attempt to comply with it in the full spirit of the law. To continue their former policy of forcing the evils of discrimination on unsuspecting children would be a great disservice to American principles of justice and fair play."

The original decision against Bob-Lo was handed down by Judge John J. Maher, of Recorder's court.

Did Justice Triumph in Columbia?

Pittsburgh, Pa. Courier
Sat. 7-5-47

Tennessee High Court Upholds Conviction Of Negro in Columbia Riot

By Special Correspondent

NASHVILLE, Tenn.—The Tennessee Suprme Court, last week, upheld the conviction of Lloyd Kennedy, one of more than 100 Negroes arrested in a roundup following racial disorders at Columbia, Tenn., Feb. 25 and 26, 1946.

The court held that colored people "have no constitutional right to trial by a mixed racial jury.

UPHOLDS SENTENCE

"The right is that their race shall not be discriminated against is the selection of grand and petit juries," the high court ruled in upholding the five-year prison sentence of Kennedy, the only person convicted in connection with the Columbia disturbances.

"We think the defendant had a fair and impartial trial," Justice Alan W. Prewitt's opinion said.

"We find no discrimination here. In fact, the panel was made up by the jury commissioners of Maury County more than two years before the alleged offense was committed and it is shown that the names of several Negroes were on these panels." Sat. 7-5-47

TWO KILLED IN RIOT

Kennedy was convicted of assault with intent to commit murder in the second degree in connection with disturbances which saw two colored men killed and several white persons wounded, including four policemen.

Earlier, twenty-three of twenty-five Negroes were acquitted of charges resulting from the disorders, and charges against the other two were dropped after they won new trials. Attorneys today saw the possibility the Kennedy case may go to the U. S. Supreme Court.

Meanwhile, dockets of courts at Columbia contained the cases of several other colored persons facing charges in connection with the 1946 incident, which brought out not only the State highway patrol but 1,200 members of the State Guard.

FIGHT TOUCHED OFF VIOLENCE

On the dockets is the case of James Stephenson, young Negro, and his mother, Gladys. Both are charged with assault with intent to commit murder following a fight with a white radio repairman which touched off tension and fear of mob violence.

William A. Pillow, another defendant tried along with Kennedy last fall, was acquitted.

To Appeal N.Y. Jim Crow Ruling

The Chicago Defender-Chicago, Illinois

On Publicly Subsidized Housing

Sat. 8-9-47

NEW YORK—The state Supreme Court ruling upholding the right of an insurance company to bar colored persons as tenants from a publicly-subsidized housing project was under heavy fire here last week.

Described as raising the most important race relations issue since the Dred Scott decision, the court ruling was vigorously denounced by both legal and lay figures.

Vets' Suit Starts Case

The controversial ruling came out of a hearing on the suit of three veterans, Monroe Dowling, Joseph Dorsey and Calvin Harper, against the Metropolitan Life Insurance Co. The action, backed by both the National Association for the Advancement of Colored People and the American Jewish Congress, sought an injunction to prevent Metropolitan from refusing colored persons as tenants in Stuyvesant Town, a large newly built housing project in downtown Manhattan.

Basis of the court action was the fact that the land on which the project is built had been taken over by the city and that the company with the consent of the city and that the tax exemption for 25 years, which, in effect, means that the project is supported at least in part by the public.

Supreme Court Justice Felix C. Benvenga, in his ruling denied the injunction and reaffirmed the policy of refusing to adhere to the policy of refusing to accept colored tenants in the project.

Appeal To Appeal

Abrams C. Abrams, counsel for veterans and a noted lecturity in the field of housannounced that the decibe appealed.

Although unwilling to criticize ruling professionally, in his close connection with Abrams did indicate his belief that if the ruling is allowed to stand or is affirmed by the highest court, it would open the way for expansion of such segregated and discriminatory patterns in housing in many portions of the state.

Talmadge Ousted in Georgia; Court Gives Thompson Reins

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5-2 Ruling in the Governorship Dispute Voids the Assembly Vote—Loser Yields Quickly to the Lieutenant Governor

New York N.Y.

Special to THE NEW YORK TIMES.

ATLANTA, March 19 — The Georgia Supreme Court, in a 5-to-2 opinion, deposed Herman Talmadge today and declared Melvin E. Thompson the acting Governor, ending a two-month-old controversy that divided the State's Democratic party into warring factions. Thurs. 3. 20. 47

Mr. Talmadge promptly vacated the executive offices and the Governor's mansion, which he seized Jan. 16 with the aid of a few highway patrolmen after the General Assembly had elected him Governor. His close associates said he would take his case before the people in the next Gubernatorial election in 1948.

In a 9,500-word document the majority ruling of the Supreme Court denied the Talmadge contention that it did not have jurisdiction in the case and held that the power of the Assembly to elect a Governor was limited by the constitution to such time when there "is a failure of the people to cash a majority of their votes for any person.."

It stated that the death of Mr. Talmadge's father, Gov.-elect Eugene Talmadge, twenty-three days before he was to have been inaugurated, did not authorize the Legislature to void the election results; and that the Assembly's election of Herman Talmadge was invalid. It went on to say that upon the resignation of former Gov. Ellis Arnall, Mr. Thompson elected in November as the State's first Lieutenant Governor, "became vested with full executive powers of the State."

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Day of Swift Developments

The decision was followed by swift developments.

The State Senate immediately rescinded its previous confirmation of twenty-one Talmadg eappointees to State offices.

Attorney General Eugene Cook announced that all measures approved by the present General Assembly and signed by Mr. Talmadge would be unconstitutional unless submitted to Mr. Thompson for approval or veto.

Mr. Thompson said he would take over the executive offices tomorrow morning. He was expected to address the Legislature during the day on taxation, expansion of state services and the white primary bill.

The Talmadge-sponsored white primary measure, repealing all state primary laws and turning control of such elections over to the Democratic party, will be vetoed by Mr. Thompson, it was predicted. Mr. Talmadge has already signed the bill. Substitute measures, introduced by Thompson adherents, would retain primary laws and tighten educational requirements. Wed. - 3 - 20 - 47

The Supreme Court majority ruling was written by Presiding Justice W. H. Duckworth and concurred in by Associate Justices R. C. Bell, Grady Head, Lee Wyatt and Lee Atkinson.

Arnall's Procedure Upheld

The opinion declared that former Governor Arnall acted within provisions of the Constitution when he remained in office four days after expiration of his term until Mr. Thompson could be sworn in as Lieutenant Governor and qualified to succeed to the Governorship.

The decision dealt with conflicting interpretations of Constitutional articles, in the absence of clear, specific provisions as to the Governor-elect's successor in event of death before he is sworn in. It was based on arguments presented March 6 in appeals from three Superior Court decisions, two of which upheld Mr. Talmadge and one favored Mr. Thompson.

Dissenting were Chief Justice W. F. Jenkins and Associate Justice Tom Candler, who contended that the controversy involved questions over which the General Assembly had exclusive jurisdiction. The Assembly's election of young Mr. Talmadge was based on a section of the Constitution which states that if no person receives the majority of the general election votes, the Legislature shall elect one of two persons receiving the highest number of votes. Eugene Talmadge's majority was cancelled out by death, it was contended.

However, the ruling opinion of the court today declared that the death of Eugene Talmadge did not change "the duty of that body to declare his election," nor give it the right to elect his son, who got 675 general election write-in votes.

Opinion Goes Back to 1824

The justices asserted:

"In 1924, by constitutional provision, the General Assembly was divested of its general power to elect a Governor and that power was retained by the people, where it remains today. The General Assembly was given the conditional power to elect a Governor. A condition precedent to such an election by the General Assembly is a failure of the people to cast a majority of their votes for any person, in which event the General Assembly is given the power to elect one of two persons having the highest number of votes who are in life and willing to accept election at the time appointed for the General Assembly to elect.

The State
New York N.Y.

M. E. Thompson after hearing the decision. Associated Press Wirephoto

"The death of the Hon. Eugene Talmadge after his election by the people and before publication of the returns by the General Assembly did not change the duty of that body to declare his election nor authorize the General Assembly to declare by resolution that because of his death no person had a majority of the votes and to elect a Governor. Thurs 3. 20. 47

"Accordingly, where in such circumstances the General Assembly undertook to elect another person as Governor, namely the Hon. Herman Talmadge, such attempted election was a void act which did not confer upon him any right or title to the office of Governor.

Says a Red Might Thus Get In

"A construction of the Constitution that would sustain the election of Mr. Talmadge by the Legislature would place a controlling meaning upon the pertinent portion of the Constitution which might compel some future General Assembly to elect as Governor a person wholly undesirable because of his communistic or other alien philosophies of government, in any case, where the majority candidate died before the returns were published by the Legislature and where one of such undesirable persons received the next highest number of votes.

"It would not constitute a worthy solution of the hypothetical case to suggest that the General Assembly in such a case may simply make no election. Those members are under the solemnity of an oath, obligating them to obey the Constitution. In a case where the Constiution authorizes the General Assembly to elect a Governor it declared that if the condition present exists the General Assembly shall elect a Governor viva voce.

"Such a construction as that above would mean that the General Assembly, when acting as canvassers of the general election returns, are supreme and their action is not subject to review. To thus hold would mean that had Mr. Eugene Talmadge been living, and despite the knowledge of everyone of his overwhelming election, the canvassers of these election returns would with immunity and finality assert that some other person was elected and the people's rights, together with their rights of Eugene Talmadge to have his election recognized, could thus be destroyed, leaving them without any recourse whatever.

"From what has been said we must hold that in the circumstances appearing the General Assembly had no jurisdiction to elect the Hon. Herman Talmadge or any other person as Governor.

"Under the Constitution, Article 5, Section 1, Paragraph 1, Governor Arnall was authorized to occupy the office of Governor until his successor was chosen and qualified. A successor was chosen, but his death prevented him from qualifying at the time fixed by law, thus creating the necessity for Governor Arnall to continue in office. But Mr. Thompson was elected in the general election in 1946 as Lieutenant Governor of this State and he is required, in case of a vacancy in the office of Governor, to perform the duties of Governor. Thurs. 3-20-47

"The voluntary resignation of Governor Arnall on Jan. 18, 1947 (his term expired Jan. 14), immediately imposed upon the Lieutenant Governor the duties of Governor. He is now entitled to perform all the duties and exercise all the authority which by the Constitution and laws are imposed upon the Governor of this State."

Arnall Hails the Decision

Former Governor Arnall, who rejected Mr. Talmadge as a "pretender" and defiantly held the Governor's office against a shouting crowd when Mr. Talmadge sought to take possession early on Jan. 15, said of the Supreme Court's verdict:

"It will stand as a monument to justice, righteousness, and decency in public affairs.

"My fight has been fully justified. Stealing is still unlawful in Georgia."

Mr. Talmadge moved out of the Governor's office within thirty minutes after the decision: He told reporters he expected to "farm and practice a little law."

GEORGIA DECISION COURT

In rejecting Herman Talmadge's claims to the governorship of Georgia, the state Supreme Court brought the curtain down on a ludicrous, hilarious scene in which the rival governors looked like end-men in a minstrel show.

Chicago Sun

The political turmoil, however, which lasted nine weeks had its serious if not dangerous aspects. When the constitution of a state is brazenly violated as was the case in Georgia, democratic traditions are in grave danger of being superseded by a perversive authoritarian technique. Democracy cannot for long endure such insidious assaults upon its ramparts without wiltering at the base. It was, therefore, a relief that calls for hallelujah, when the state Supreme Court in a 5-to-2 decision declared Herman Talmadge's election by the legislature unconstitutional.

While the decision is in effect a triumph for law and order, it can scarcely be considered a victory for democracy if Governor M. E. Thompson keeps the white primary law that was fostered by Talmadge, the usurper.

It is not enough for the highest judicial body of the state to dispel the fog around the gubernatorial succession. Men who are properly trained in the law and to whose care is committed the sacred trust of interpretation, are not likely to deflect their reasoning for personal motive or emotional satisfaction. The court decision was therefore not surprising. It is both an affirmation

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cal inten-unwashed Columbians, he will be a Governor great disappointment to the progres- cy, much give people of the state and a stumb- ill be re- ling block in the path of democracy. should he l passions s, and the of the knights of soiled sheets, am

Feb 1947

Missouri

Attack Property Ban

Challenge Court's Jim-Crow Decision

Pittsburgh, Pa. Courier

Sat. 1-4-47

By GEORGE B. STAFFORD, St. Louis Bureau

ST. LOUIS—Challenging the Missouri Supreme Court's ruling which upheld an agreement of white property owners barring Negroes from a certain Labadie Avenue sector, motions for a rehearing and a modification of the judgment have been filed by Attorney George L. Vaughn.

The motions were filed on behalf of Mr. and Mrs. J. D. Shelley of 4600 Labadie Avenue, defendants, in a suit brought by Mr. and Mrs. Louis W. Kraemer of 4532 Labadie Avenue. The Kraemers are seeking to force the Shelleys out of their home, which they have owned and occupied since September, 1945.

BACKED BY REALTORS

Meanwhile a group of local real estate brokers, who recently organized the St. Louis Real Estate Brokers Association to protect Negro investments in real estate, also pledged themselves to lend their support to Mr. and Mrs. Shelley in their efforts to nullify the restrictive covenant decree. The officers of the new organizations are James T. Bush, president; R. A. Bishop, secretary; Dr. C. E. Herriot, treasurer, and Pat Robinson, chairman of publicity.

The brokers association will also strive for an equal and just system of assessments and taxation; the proper enforcement of ordinances designed for the protection, conveniences and welfare of the public and the promotion and support of all measures to beautify and improve neighborhoods with parks, playgrounds and recreational centers.

Sat. 1-4-47

LOWER COURT REVERSED

In the case of the Kraemers against the Shelleys, the Missouri Supreme Court's decision reversed an order, during the fall, by Circuit Judge William K. Koerner of St. Louis, to dismiss the suit on the grounds that the restrictive agreement on which the suit was based was invalid since nine of the property owners at that time (in 1911) five of whom were Negroes, did not sign.

Missouri's highest court ruled that the restrictive covenant did not violate the State Constitution or the civil rights guarantees of the United States Constitution.

FLAW IN SUIT REVEALED

In an interview with a Pittsburgh Courier representative last week, Attorney Vaughn expressed the opinion that in view of the fact that the Kraemer suit failed to list lot numbers or specific description of the property in question, he expected a reversal of the decision.

"If we fail to get a favorable decision on the motions I filed this week," declared Attorney Vaughn, "We'll take the case to the United States Supreme Court."

13c 1947

U. S. Court Orders House, Land Returned To Woman

13c Atlanta Daily World

WASHINGTON, D.C.—(NNPA)—Branding the facts as "a sordid story of usury and fraud," the United States Court of Appeals of the District of Columbia last Monday affirmed a judgment of the District Court returning to an unlettered woman her property in Maryland and $705.34 taken from her, plus $600 as attorney's fees.

The appellate court, in an opinion written in unusually strong language by Justice Wilbur K. Miller, said the decree of the District Court "correctly demonstrates that the ancient law which said 'Unto a stranger thou mayest lend upon usuary' is no longer in effect."

The decision climaxes a fight to 3, 1943, by Mrs. Nannie Smith and her attorney, Maurice Friedman.

"We regard the fraud revealed by the record as gross in nature, practiced wilfully and oppressively upon untutored trusting victims who were long ignorant of their rights and but vaguely conscious of their wrongs," Justice Miller said. Sat. 3-11-47

For some years, Mrs. Smith and her daughters, Marie Smith and Ollie Ruth Jessie, owned a small house and lot in Montgomery County, Maryland. The Smiths became delinquent in paying their taxes in 1938 and the house needed repairs and improvements.

Agreed to Loan

Mrs. Smith approached Maurice I. Schlein and his wife, Mrs. Rose Schlein for a loan of $500. The Schleins, who were engaged in the construction business in Washington and made real estate loans, agreed to lend the money.

She made a note for $750, payable at the rate of $12 a month plus 6 per cent interest. She got out of the note $487.

Payments on the note were made regularly until September, 1939. When that installment was not paid, the Schleins foreclosed and the property was sold at auction October 11, 1939. Warren T. Cothern, acting for the Schleins, bought it for $300.

"Immediately after the sale, Schlein went in the house and assured the tearful Nannie that he would reconvey her home to her and her daughters upon payment of $100," the appellate court found. She agreed to pay in "driblets." Sat. 3-11-47

The Schleins continued to accept payments from Mrs. Smith. By November, 1945, the Millers had paid to the Schleins more than $1,2240. Adding the sum received from the Smiths, the Schleins had by that time received from the property at least $1,493, although their total investment in it was only $787.66, consisting of the $487 originally disbursed on the Smith note, $149.10 paid later, and $151.56 paid to redeem the property from an earlier tax sale to a third person.

Mrs. Smith sued the Schleins July 3, 1943. Her suit was dismissed. The Court of Appeals reversed the decision and remanded the case to the District Court. On retrial the District Court ordered the Schleins to convey the property to the Smiths or pay them the sum of $1,250, the value of the property. Judgment was given also for $705.34, the difference between the sum of $1,493, collected by the Schleins from the Smiths and the Millers, and the sum of $787 disbursed by them. 3-11-47

In appealing, the Schleins assigned eleven errors. The appellate court said they were "devoid of merit."

In California

School Bias Draws Blast From Justices

Pittsburgh, Pa. Courier
Sat. 4-26-47

(From California Bureau)

SAN FRANCISCO—Appellate Justices of the Ninth U. S. Circuit Court of Appeals last week branded as illegal, vicious and a corollary to Hitler s anti-Semitism the practice of segregation in schools of this State.

In a suit originally filed by Gonzalo Mendez and others, the segregation of Mexican and other children of Latin extraction was protested. This segregation took place in schools in the Westminster, Santa Ana City, El Molena, and Garden Grove school districts of Orarge County.

Enjoined by the District Court of Southern California, the case was appealed. Stating that the practice of segregation violated the Fourteenth Amendment, representatives of the State of California, the Civil Liberties Union, Negro and Jewish agencies staged a vigorous protest. Sat. 4-26-47

OFFERS WARNING

In a separate opinion of the case, Justice William Denman called the matter to the attention of the Southern District Court, and the Grand Juries of the District, with a probable view to having offending school officials indicted.

It was pointed out by Justice Albert L. Stephens that nowhere in the State of California is segregation upheld. He added that Orientals are the only group who are specifically stated in the laws of the State as being subject to segregation. In conclusion, he said that Orange County Trustees openly proclaimed their guilt when they segregated in violation of State educational laws. Sat. 4-26-47

Right of Realty Owners To Bar Negroes Is Upheld

Baltimore Md.

WASHINGTON, May 26. (UP)—The United States Court of Appeals today upheld, by a 2-1 decision, the right of real estate owners to exclude negroes from a residential area here.

The court upheld a District court decision which voided sales of four lots to negro families. The lots and 16 others are covered by a long-standing "covenant" that they should not be sold or rented to negroes. Sun 5-31-47

Pittsburgh Pa. Courier

The Root of Jim Crow

The 2-to-1 decision of the United States Court of Appeals last week upholding the right of real estate owners to exclude Negroes from a residential area in Washington D. C., was a definite defeat for our people.

It is comforting to note the dissenting opinion of Judge Henry White Edgerton, which took the highest ground and was a slap at his two associates. Pittsburgh, Pa. Courier

Although the case involving the sale of four lots will now be taken to the U. S. Supreme Court, still predominantly New Deal, the fact remains that this decision is a setback in the long fight for racial equality in this country. Sat. 6-7-47

Residential covenants, which are now nationwide, are at the very root of the American jim-crow system, and as long as they are legal the widespread system of racial segregation cannot be destroyed.

The very basis of segregation is residential separation.

So long as it is possible to keep Negroes and whites from living in the same areas all the other evils of segregation are bound to remain.

Even where there are no legally established separate schools, all educational institutions, publicly supported, to which Negro youths must go, will remain in effect segregated just as long as there are white and colored residential districts separated by law.

Understandably the U. S. Supreme Court has avoided ruling on this issue because, as Mr. Dooley said, "The Supreme Court follows the election returns."

It does not simply consider the law and the Federal Constitution, but also considers the wishes of the majority of the people, and rarely goes contrary to their prejudices, except in issues like Lend-Lease and the unwarranted incarceration of 100,000 Japanese-American citizens in concentration on "racial" grounds alone.

Unless Negroes can uproot this system of residential segregation they will find it extremely difficult to do much about the other forms of segregation which are based upon the enforced ghetto.

This is why Negroes must continue to take well-prepared cases to the highest court until a precedent is established which will do away once and for all with the residential covenants which fence them in. Sat. 6-7-47

Bullock Sheriff, Four Others Are Acquitted

Birmingham, Ala. News

MONTGOMERY, Ala., June 18—(AP)—Bullock County Sheriff J. L. Pickett and four other defendants charged with violating the civil rights of a Negro woman were free today after acquittal by a federal jury. Wed. 6-18-47

The other four accused originally by the Negro woman, Martha McMillan, mother of eight, were Verrell Green, Mr. and Mrs. Reynolds G. Cook and Comer Green.

The McMillan woman charged Pickett, Verrel Green and Cook took her to jail without a warrant after Green had kicked her in the mouth. She said they accused her of stealing rings from Mrs. Cook.

Later, she testified, she received a visit from Mrs. Cook and Comer Green, who threatened her if the rings were not returned. Wed. 6-18-47

All the defendants denied the charges. The trial ended yesterday.

U.S. Court Decision Ignored in RR Case

Afro-American
Baltimore Md.

Examiner Advises Publishing of Rules

Sat. 6-28-47

WASHINGTON (NNPA) — An examiner for the Interstate Commerce Commission recently ignored the decision handed down by the United States Court of Appeals which held that the principle laid down in Morgan v. Commonwealth of Virginia was applicable to interstate travel in railroad cars.

In the Morgan case the U.S. Supreme Court ruled that State statutes requiring race segregation of passengers traveling interstate in buses were illegal.

Should Publish Rules

The examiner recently recommended that the Commission find that it is discriminatory for the Southern Railway Company to set apart separate accommodations for colored and white passengers unless it publishes its rules regarding race segregation. Sat. 6-28-47

The recommendation was made by Charles W. Bertry in the cases of Mrs. Vashti Brown, Mrs. Lillian Falls and Mrs. Muriel Helcombe who were compelled to move from a "white coach" to a "colored coach" on the all-coach streamlined "Southerner" after the train had crossed the Potomac River, going south.

Contrary to Morgan Case

His recommendation is contrary to the decision in the case of Ralph Matthews, William Scott and the Rev. William H. Jernagin in which the United States Court of Appeals held that the decision in the Morgan case also applies to interstate travel by rail. Sat. 6-28-47

The three complainants, who were accompanying the body of their mother from New York to Atlanta for burial, said that they had purchased tickets in New York where they were given reservations.

Loan Broker Must Repay $1300 to Rural Matron

Afro-American Baltimore, Md.
Sat. 3-8-47

Unlettered Housewive, Victim of 'Usury,' Wins Long Court Fight to Regain Home

WASHINGTON (NNPA) — The U.S. Court of Appeals of the District of Columbia, on Feb. 24, affirmed a judgment of the District Court returning to an unlettered woman her property in Maryland and $705.34 taken from her, plus $600 in attorney's fees.

The appellate court, in an opinion written in unsually strong language by Justice Wilbur K. Miller, called the facts in the case "a sordid story of usury and fraud."

It averred that the lower court's decree "correctly demonstrates that the ancient law which said, 'Unto a stranger thou mayest lend upon usury,' is no longer in effect." Sat. 3-8-47

Ends Long Fight

The decision climaxes a fight begun July 3, 1943, by Mrs. Nannie Smith and her attorney, Maurice Friedman, to recover property bought in Montgomery County, Md., from Mr. and Mrs. Maurice Schlein.

"We regard the fraud revealed by the record as gross in nature, practiced wilfully and oppressively upon untutored trusting victims who were long ignorant of their rights and but vaguely conscious of their wrongs," Justice Miller said.

$500 Loan Exploited

Taxes for 1938 became delinquent on a small house and not long owned by Mrs. Smith and her daughters, Marie and Ollie Ruth, and the dwelling was in need of repairs and improvements.

She asked for a loan of $500 from the Schleins who conducted a construction business in Washington, D.C., and made loans on real estate, negotiating a note for $750 payable at a rate of $12 a month plus six per cent interest.

Mrs. Smith received but $487, however, and made payments regularly until August, 1939. When she defaulted on the September payment, the Schleins foreclosed, Warren T. Sothern, acting for them, buying the property at auction for $300 on Oct. 11, 1939.

Sold to Tenants

Immediately after the sale, Mr. Schlein went into the house and assured Mrs. Smith that he would reconvey the property to her and her daughters upon payment of $100. She agreed to pay this in small amounts. Sat. 3-8-47

Later, Mrs. Smith rented the house to a married couple at $13 a month which the Schleins collected from Jan., 1940, to Nov., 1945. The couple bought the property for $1250, paying $1240. The Schleins received $1493 on an investment of $787.66.

U. S. Court Rules S. Carolina Law Training Biased

Atlanta, Ga. Daily World
Tues. 7-15-47

Set Up Equal Law School Or Remove Bar, Judge Rules

CHARLESTON, S. C.— (SNS)— U. S. District Judge J. Waties Waring, 66-year old Charleston born jurist, who ruled Saturday the participation of Negroes in the here-to-fore white Democratic primary elections, also made an accompanied ruling that John H. Wrighten Charleston Negro, and others like him would be entitled to enter the University of South Carolina law school unless by the opening of the next school year, the state provides an adequate course in the college for Negroes at South Carolina state college. Tues. 7-15-47

If one of the above conditions are not carried through the judge stated that the state must then furnish no law school education to any persons of either white or Negro races

Wrighten, a graduate of South Carolina State, claimed that his civil rights were infringed when his application for admission to the University Law School was refused because of his color.

PETITIONED FOR ADMISSION

Contending that he was entitled to the same opportunities for a law education provided for white students at the university and that no other law school supported by the state was available to him, Wrighten insisted it was his right to attend the white university and instituted a petition for such.

In defense, University officials and trustees contended that the state constitution prohibited the admission of Negroes to the institution and claimed that a law school was provided for the Negro college where Wrighten could receive "equal" law training. Tues. 7-15-47

It is reported thet South Carolina State has reiterated its previously proposed intention of opening a law school their this fall for Negroes.

Encouragement In Mistrial

Atlanta, Ga. Daily World

Close observers who have followed the case of two white men the Verner brothers of Monroe—who were tried in federal court at Athens Monday and Tuesday on charges of beating Lamar Howard because he testified in connection with the lynching last July, no doubt are surprised by the verdict of the jury in acquitting one and failing to convict the other. This is especially true to us because we have followed this case from the next day after the attack on the Howard youth through all the state and federal hearings.

However, there are some aspects to the trial at Athens in this case that afford some encouragement to us in our fight for law, order and justice and the elimination of the predominance of racial prejudice in cases involving the two racial groups. Thurs. 6-5-47

We were particularly impressed and encouraged by the fair and impartial manner in which the presiding judge conducted the trial and charged the jury. Attempts by the defense attorneys to bring in irrelevant and prejudicial matter were thwarted by the rulings of the court.

District Attorney Cowart and his assistant presented their case thoroughly and convincingly to us but it is up to jury to render the verdict. And considering the fact that there were obvious racial feeling in the case from both sides, the failure of the jury of twelve white men to agree on the innocence of one of the defendants is a tribute to the prosecuting attorneys.

Because of the gravity of the charge still remaining against one of the Verner brothers, we hope the government will continue the case as soon as possible. Thurs. 6-5-47

THE RIGHT TO A PLACE TO LIVE

Afro-American

Our hat is off to Justice Henry W. Edgerton of the U.S. Circuit Court of Appeals for the District of Columbia, for having the courage of his convictions in dissenting last week against the ruling upholding residential segregation.

Justice Edgerton, of Kansas, was outvoted by Justices Champ Clark of Missouri and Wilbur K. Miller of Kentucky, two known Dixie diehards, who ruled that four colored purchasers of homes in the 100-block of Bryant Street, N.W., could not occupy them. Baltimore, Md.

These two justices ruled that restrictive covenants do not involve discrimination because they permit reciprocity.

To this, Justice Edgerton replied:

"That amounts to saying that if colored persons are excluded from decent housing, they may retaliate by excluding whites from slums." Sat. 6-7-47

Such covenants, he pointed out, are contrary to the "without distinction as to race" provisions of the United Nations Charter. A Canadian court recently ruled against such restrictive covenants.

To date the U. S. Supreme Court has never decided whether such housing restrictions based upon race are enforceable by injunction. Two cases, one from Michigan and the other from Missouri, have already been sent to the Supreme Court in recent months, and it appears that this recent Washington case is also headed there.

The right to earn a living and the right to have decent housing are fundamental in the basic concept of American democracy. Yet, the enforcement of restrictive covenants has been permitted to infringe all these years upon the rights of colored American citizens.

The test cases now before it provide our highest tribunal an opportunity to declare such restrictions unconstitutional. Sat. 6-7-47

With all of the talk about juvenile delinquency, disease and high mortality, here is an opportunity to strike a blow against them and, at the same time, to make a practical application of the democratic theory.

Tells Federal Jury He Was Pushed Off Moving Coach

Afro-American Baltimore, Md.
Sat. 6-7-47

Employed as Steward at Time of Injury; Testifies From Wheel Chair

PHILADELPHIA — Charles Brown, 39-year old veteran who lost both legs in a train accident last August while employed as a dining car steward, was awarded damages of $36,000 by a Federal Court jury.

Testifying from a wheel chair, during the two-day case heard before Judge J. Cullen Ganey, Brown said he had been pushed by the chief steward, while leaving a train at 1709 N. 13th St. with his wife, Velma.

Refuses Company Offer

He disclosed, after the verdict by the jury of 11 women and one man, that he had rejected a settlement with officers' messes and clubs, before he was discharged in October, 1944.

Brown said he was employed for about eight months with the railroad before the accident. He served three years in the Army, most of the time on special assign-

13c 1947

Segregational Zoning Law Is Ruled Invalid

8 a.m. Ala. News 8-1-47 Fri 8/1/47

Federal District Judge Clarence Mullins today the Birmingham city ordinance which prevents Negroes from living in areas zoned for whites. The ordinance was termed a violation of the 14th amendment. This amendment protects the equal rights of American citizens.

Judge Mullins has previously ruled unconstitutional a city of Tarrant ordinance of the same nature as it applies to a development in that area.

A prolonged court fight is expected over the latest ruling, given late yesterday afternoon. John Foster, former city attorney, who represented the city, said he expects to appeal.

* * *

RULINGS DECLARING similar ordinances unconstitutional in other parts of the country have been handed down by the United States Supreme Court, and the Supreme Courts of North and South Carolina and Georgia, it was learned from Judge Mullins.

The case on which Judge Mullins ruled yesterday was brought into Federal Court by Arthur D. Shores, Birmingham Negro attorney. He said it was not a class action suit, but brought specifically on behalf of Samuel Matthews, Negro, 631 First Court, North, and his wife, Essie Mae Matthews. They said they built a house on 11th Court, between First and Second Streets, West, on the understanding from the city that it was Negro property. After completing the house, they claimed the city would not give them a permit to occupy it on the grounds that it had been zoned for whites.

In his ordinance yesterday, Judge Mullins said the city had no further right to prevent the Matthews from living in the house. 8-1-47

* * *

SHORES TOLD the court that he had made two visits to the office of H. E. Hagood, city building inspector, to get the occupancy permit. Mr. Hagood said he had to take up the matter with the city attorney because, he said, Shores asked for a special written permit in addition to the customary one. Hagood added the Negroes would have received the customary permit if they had returned for it. He testified they never did.

Hagood explained to a News reporter that his supervision stopped at issuing an occupancy permit. It was not his concern whether Negroes wished to violate the law by occupying a house in a white zone, he added. He is responsible only for a house being fit to live in, he pointed out.

H. L. FARLEY, real estate man, testified that several white prospects had turned down the house because of the kind of neighborhood in which the dwelling is located.

Judge Mullins had thrown out a previous petition by the same plaintiffs on the grounds that they had brought the action prematurely. He pointed out at the time that a final inspection on the property had not been made. Shores brought the second suit after the inspection had been made. He charged that the city continued to withhold the occupancy permit after this final inspection had been approved.

Give Negroes 1st Class Law School Or Admit Them to White College

Sat 7-19-47 The Pittsburgh Courier Pittsburgh, Pa. 7-19-47

CHARLESTON, S. C.—Unless this State has a first class standard law course in operation at the State College for Negroes in Orangeburg at the opening of the next school year, it will have to admit John H. Wrighten, a local Negro, to its white University of South Carolina Law School at Columbia. Federal Judge J. Waties Waring issued that decree here Saturday.

Judge Waring's decision came after he had studied the case brought against the State by Attorney Harold S. Boulware of Columbia, representing Wrighten, before U. S. District Court at Columbia in June.

The judge denied Wrighten's request for admission into the white law school, on provision that the State provide an equal training course for him at the Negro school. Pa. Sat.

Otherwise, said he, the only alternative was that this State provide no law school education to either white or Negro students.

U.S. Court Denies Plea To Bar Negro From Carolina U.

Defender Chicago, Ill.

BALTIMORE — The Fourth U.S. Circuit Court of Appeals Friday dismissed as premature an appeal by the University of South Carolina from a District Court injunction ordering it to admit John H. Wrighten, 25, to its law school. Sat 11-29-47

The Circuit Court indicated that before appealing from the injunction the university should present all evidence it has that equal educational facilities exist in the state. School attorneys did not object to the ruling which was a dismissal without prejudice. Chicago, Ill.

The state has only a make-shift law school for Negroes at Orangeburg, with a faculty of three professors. Even that did not exist before Wrighten filed his lawsuit.

$3,000 Settlement Won in R.R. Jim-Crow Suit

Afro-Am. - Baltimore, Md.

Sat. 1-11-47

NEW YORK—In what is thought to be the first substantial recovery of damages from railroads for violating civil rights by jim crow-

ing interstate passengers, Mrs. Nina Bertram of 868 Union Ave., Bronx, received $3,000 from the Seaboard Air Line Railway on Jan. 3. Sat. 1-11-47

The settlement "marks a great victory in the fight to end jim crow in this country," said Samuel R. Shapiro, attorney, who filed the suit for Mrs. Bertram in the U. S. District Court, here, in October, 1945.

Filed $75,000 Suit

Mrs. Bertram, who sued for $75,000 for injury and violation of civil rights, said that the jim crow incident occurred on Aug. 7, 1945, when she and her 5-year-old son were en route from New York to Columbia, S.C.

She stated that at Raleigh, N.C., she was ordered into a different coach and finding no space there, returned to her original seat.

At Hamlin, N.C., she continued, a white police officer, who had been summoned by the conductor, struck her and forced her back into the crowded jim crow car.

Jury Directed to Make Decision

The Afro-American

Roanoke Minister Given $25 Damages

Baltimore, Md.

SETS PRECEDENT

Sat-8-9-47

Verdict to Determine Right to Segregate

ROANOKE, Va.—A judge ment of $25 was awarded Monday by a Federal Court jury (by order of the judge), to the Rev. William J. Simmons against the Atlantic Greyhound Bus Co.—thus setting the stage for a court test of segregation on buses in Virginia and other Southern States.

Judge John Paul instructed the jury to fix damages for the minister, if his rights had been violated by the bus company when a driver asked him to move to the rear of the bus.

Law Confusing, Jury Told

The jurist, in instructing the jury, said the segregation law has become confused since the U.S. Supreme Court's decision in the rene Morgan case last year.

He made it plain that the final decision will rest with him after passing on motions by attorneys, and it was the jury's responsibility to determine only the amount of damages suffered by the minister.

Pastor Leaves Bus

Instead of moving to the rear of the bus before it left the local terminal, the Rev. Mr. Simmons got off and caught a night train to Salisbury, N.C., to attend the Presbyterian synod.

He testified that, because of the change from bus to train—necessitated by the driver's order—he was late reaching the synod.

1st Verdict Rejected

After deliberating but 15 minutes, the jury brought in a verdict for the bus company, holding that the minister had not suffered any damages as a result of the incident. Sat-8-9-47

Judge Paul, however, refused to accept the verdict and sent the jury back to bring in a verdict for a nominal sum.

He declared that, in finding "no damages," the jury in effect was saying the minister's rights had not been violated.

Jury Called Back

When the jury had been out 30 minutes the second time, Judge Paul again sent for the jurymen, explaining that he wanted them to fix a nominal sum.

He then emphasized that the suit was being brought to "establish a legal right" and involved" complicated legal questions" which he would have to decide.

Afraid Of Precedent

C. S. Graybeal of Christianburg, the jury foreman, told the jurist that they hesitated the second time after bringing in the "no damages" verdict because "the jury would be setting a precedent."

The judge reassured the jury that fixing a nominal sum would not set a precedent, but if a precedent is set, it will be his decision in the case.

The jury returned its $25 judge men a few minutes later.

Both sides indicated that the case may reach the Supreme Court. Sat-8-9-47

Bus Executives Testify

Testimony of three executives from three interstate bus companies was to the effect that:

"t would be impossible to ermit colored passengers in interstate travel to sit in front of the bus and require those on the same bus traveling within the State to sit in the rear."

Fear 'Racial Trouble'

The executives also were unanimous in testifying that, what their attorneys describe as "indiscriminate co-mingling" o fthe races on buses would lead to racial trouble.

Judge H. Lester Hooker of Richmond, chairman of the Virginia State Corporation Commission, testified that nonsegregation on bueses "might lead in some instances to physical violence."

He told the court that the Commission feels segregation on buses is in the best interest of the public.

Carolina Backs Virginia

Similar testimony was given by Major John T. Armstrong of Raleigh, N.C., chief inspector for the North Carolina Utilities Commission, who said integration on buses in his State "might lead to trouble."

The Rev. Mr. Simmons, pastor of Fifth Avenue Presbyterian Church here, was represented by George P. Lawrence, local attorney, and Martin A. Martin of Richmond, counsel for the NAACP.

It said the union represented all locomotive firemen employed by the railroad, and that colored firemen who constitute a minority must accept the union as bargaining representative, although excluded from membership.

Union Scored

The court scored the union for using its bargaining power to deprive colored railroad employees of desirable positions as firemen "which the railroads do permit them to hold."

Court's Opinion

This was the third time a Federal court upheld Mr. Tunstall's right to the run and seniority rights, of which he was deprived by an agreement between the Brotherhood of Locomotive Firemen and Engineers and the railroad.

The Norfolk court awarded Tunstall $1000 for loss of wages. The Appeals Court was written by Judge John J. Parker.

R. R. Union Scored in Tunstall Case

Sat. 8-30-47

RICHMOND, Va.—The Fourth U.S. Circuit Court of Appeals last week affirmed the right of Tom Tunstall, colored fireman on the Norfolk-Southern Railroad to keep his run by right of seniority, as decreed previously by Judge Sterling Hutcheson of the U.S. District Court in Norfolk.

U.S. Court Okeys Fireman's Job

Afro-American

The historic Tunstall case has been heard five times before Federal Courts, including the U.S. Supreme Court which overruled both the District and Appeals Courts which originally found for the plaintiff.

An Inescapable Verdict

Atlanta Daily World-Ga.

The Brotherhood of Locomotive Firemen and Enginemen union has been ordered by Federal District Judge John J. Parker, to restore his former job with full seniority status. Tom Tunstall, fireman for the Norfolk-Southern Railway Company, and to pay to him damages of $1,000.

Tri. 8-29-47

The Brotherhood was charged with the unfair practice of discriminating against Negro firemen by taking away their jobs and parcelling these jobs out to white men. According to the Judge, the Union and Management entered into conspiracy to deprive Tunstall of his job as his bargaining representative, although he and other Negro firemen similarly situated are denied membership into the Union.

"Because the railroads do not permit Negroes to hold positions as engineer," declared Judge Parker, "is no reason why a bargaining agent representing them should use its bargaining power to deprive them of desirable positions as firemen which the railroads do permit them to hold."

Tri 8-29-47

The conclusion arrived at by Judge Parker was inescapable. The ruling is an affirmation of a decision handed down in a Norfolk court sometime previous. And it was the subject of a protracted and heated discussion during the course of the Fair Employment Practices Hearings back in 1944 and 1945. It is to be doubted that any single segment of labor unionism in America is more direct and ruthless in its treatment of their Negro fellow workers than the Locomotive Firemen's outfit. Not only will they not campaign for the upgrading of their Negro firemen to engineers, but to the contrary, they assume an oppressive position by conspiring with the railroad officials to seize the present jobs from Negro firemen and give them to white firemen, thus robbing them of well-merited jobs and seniority privilege. A good dose of democracy would do no harm to such a union in this century of united action for advancement of the common good.

A Valuable Precedent

Courier

Colored America won another victory last week when the United States Circuit Court of Appeals ruled that a working man can recover damages from a union which fails to protect him from racial discrimination in collective bargaining.

Pittsburgh, Pa. Sat. 12-6-47

The case dealt with the policy of Southern railroads against the employment of Negroes as locomotive engineers due largely to the pressure of the lily-white Brotherhood of Locomotive Firemen and Engineers which, the judges said, has bargaining responsibility to Negroes employed by the Southeastern railroads, even though it does not accept them as union members.

As official bargaining agent for locomotive crews, this union discriminated against Negro firemen and must now pay one of its victims $1,000.

This decision will not work any immediate wonders, but it will make it more difficult for Negrophobic union officials to hold back the promotion of colored workers who have piled up seniority rights.

Slowly but surely the barriers against equality of citizenship are being broken down, despite the stubborn opposition from racial monopolists.

COURT UPHOLDS NEGRO ON RAIL UNION'S BIAS

Times

BALTIMORE, Oct. 22 (AP)—The United States Circuit Court of Appeals ruled in a decision reported today that a workman can recover damages from a union which fails to protect him from racial discrimination in collective bargaining.

New York, N. Y.

Involved is the policy of Southern railroads against the employment of Negroes as locomotive engineers.

Thu. 10-23-47

Judges John J. Parker, Morris A. Soper and Armistead M. Dobie also ruled that the Brotherhood of Locomotive Firemen and Enginemen has a bargaining responsibility to Negroes employed by the Southeastern railroads even though it does not accept them as union members.

The brotherhood is official bargaining agent for locomotive employes, the court held, and the contract it negotiated discriminates against Negro firemen.

They upheld the award of $1,000 damages by a lower court to Tom Tunstall, a fireman on the Norfolk & Southern Railway.

Negro firemen, unable to get promoted, often pile up seniority which would normally entitle them to better runs than white firemen. Mr. Tunstall charged that the union failed him by not holding out for his full seniority rights.

RULES FOR PAY EQUALITY

Times

New Orleans Judge Hits Lower Scale for Negro Teachers

New York, N. Y.

NEW ORLEANS, Nov. 7 (AP)—Federal Judge Wayne G. Borah ruled today that Negro school teachers must be paid the same salaries as white teachers of equal qualifications. He said that equal protection of the law was denied to Negroes when they were paid under a dual system providing higher salaries for white teachers.

His decision came in a case against the Iberville Parish school board. Wiley Butler McMillon, a Negro principal, sought an injunction to halt what he called discrimination against Negro teachers.

Judge Borah ruled that an injunction would be inappropriate, but he left the way open for Mr. McMillon to return to court in case he believed his rights were being violated. Mr. McMillon said that he received an annual salary of $505.50, while a white teacher of similar qualifications was paid $1,474.20.

SCHOOL MUST PAY EQUAL SALARIES, JUDGE RULES

Defender, Chicago, Ill. Sat. 11-15-47

NEW ORLEANS—Negro public school teachers are entitled to be paid the same salaries as white teachers of equal qualifications, Federal District Judge Wayne G. Borah ruled last Friday.

When there is a differential in the pay of teachers based on race or color, and Negro teachers are paid less than white teachers, he said, colored teachers are denied the equal protection of the law guaranteed by the Constitution.

The ruling was made in a three-year-old case against the Iberville Parish, La., school board. The suit was brought by Wiley Butler McMillen, a principal, who sought a federal injunction to restrain the school board from paying colored teachers less salaries than white teachers were receiving.

INJUNCTION UPHOLDS NEGRO RAIL FIREMAN

Times

Special to THE NEW YORK TIMES.

WASHINGTON, Dec. 3—Justice Alexander Holtzoff of the United States District Court today signed a preliminary injunction restraining the Brotherhood of Locomotive Firemen and Enginemen, the Atlantic Coast Line, the Southern Railway Company and ten subsidiary railroads of the latter company from discriminating against Negro firemen.

New York, N. Y.

Justice Holtzoff, on Nov. 25, decided to grant a preliminary injunction only against the Brotherhood and not against the carriers.

The court's reason for withholding the restraining order from the carriers was that they might be said to have been "constrained to enter into (those) agreements with labor unions to prevent interference with the operation of the lines."

Thu. 12-4-47

However, last Monday, counsel for the roads suggested to the court that if any injunction were to issue against the Brotherhood it should also issue against the railroads.

Sidney S. Alderman, general counsel for the Southern Railway System, also moved to bring in as defendants ten of the subsidiary railroads and terminal companies of the Southern system.

WHITE PRIMARY BAN IS UPHELD BY COURT

Times, New York, N. Y. Wed. 12-31-47

Appeals Bench Backs Decision South Carolina's Democrats Cannot Deny Vote to Negro

Times, New York, N. Y.

RICHMOND, Va., Dec. 30 (AP)—White primaries were declared illegal in South Carolina by the Fourth United States Circuit Court of Appeals today in a decision which, if upheld by the United States Supreme Court, may have far-reaching effects upon the political and economic structure of the Southern states.

Upholding a decision by District Judge J. Waties Waring, the Appeals Court blasted the contention of South Carolina Democratic party officers that the party there was a "voluntary political association which can exercise unrestricted choice of membership" and that Negroes had "no more right to vote in the Democratic primary than to vote in the election of officers of the Forest Lake Country Club."

New York, N. Y.

"No election machinery can be upheld if its purpose or effect is to deny the Negro, on account of his race or color, an effective voice in the government of his country or the state or the community wherein he lives," said the Appeals Court decision, written by Judge John J. Parker of Charlotte, N. C.

Gov. J. Strom Thurmond and W. P. Baskin, state executive committee chairman, of South Carolina, declined to comment until after they had read the decision, but Irvine F. Belser, one of the party attorneys, said he had "no doubt that we will appeal" the decision to the nation's highest court.

Judge Waring, who enjoined South Carolina election officials from denying qualified Negro voters a voice in the primaries, said they constituted the real elections in that state.

Agreeing with his view the Appeals Court reiterated that "the political philosophy of the Declaration of Independence is that governments derive their just powers from the consent of the governed; (that) the right to a voice in the selection of officers of government on the part of all citizens is important, not only as a means of insuring that governments shall have the strength of popular support but also as a means of securing to the individual citizen proper consideration of his rights by those in power."

"The disfranchised can never speak with the same force as those who are able to vote," Judge Parker's decision asserted.

13c 1947

CIRCUIT COURT ACTS

Negro Law School Suit Dismissed As Premature, Without Preiudice

The Record, Columbia S.C. Fri. 11-21-47

BALTIMORE, Nov. 21—(AP)—The Fourth United States Circuit Court of appeals dismissed today "without prejudice" an appeal from a decision directing the University of South Carolina to admit a Negro to its law school unless the state furnished legal training "on a complete parity and equal in all respects" to that for white students. Fri. 11-21-47

The three-judge tribunal characterized the appeal as "premature," and its action met with no objection either from attorneys for the state or for John Wrighten, 25-year-old Charleston, S. C., Negro who brought the original action.

The case now awaits determination, by the lower federal court, whether a law school established at the Negro college at Orangeburg since the filing of the suit is adequate within the meaning of the lower court's order.

South Carolina attorneys said in oral argument today they had been "very much disturbed" by the language used in the original decision. They argued that under a Supreme Court ruling segregation states were required to furnish "substantially equal" facilities to Negroes, and not facilities "equal in all respects" to those for whites.

When one of them indicated he would like to see the appeals court make up your mind to build a law school," he said.

And at another point the jurist remarked, indicating the attorneys, that "if you three distinguished gentlemen had put your shoulder to the wheel instead of working to get up the record in this case, the law school now would have been further along."

The state contended that the present Negro law school was already "substantially equal" to that at Columbia, but Thurgood Marshall, attorney for Wrighten, said he would contend before Judge Waring that, "no segregated law school" can be equal within the meaning of the Gaines case.

He did not make his oral argument since the dismissal was agreed on before the South Carolina attorneys ended. When he rose to "protest using this court as a means to delay, which was the purpose of this appeal," the judges told him such a protest was out of order. Fri 11-21-47

Robinson told the tribunal that it was the state's position it was not required to set up the Negro law school until demanded at which point Judge Armstead M. Dobie interjected:

"True, but until that is done, they rule that the state had met its obligation in establishing the Orangeburg law school for Negroes. Judge Morris A. Soper pointed out that this had not been done until five months after Wrighten sued. He added: Record

"There is no occasion to ask this court for a certificate of approval when you waited five months to do what you obviously had to do. You are lucky if the court doesn't say anything on this point."

When South Carolina attorney David W. Robinson observed that U. S. district Judge J. W. Waring's order at Charleston, S. C., had gone beyond the Gaines case—the one in which Supreme Court decision ordered substantially equal educational facilities for both races—one of the appeals judges expressed the opinion that the case at issues was "obviously controlled" by the Gaines case and that Judge Waring undoubtedly was guided by it.

To the state's contention that Wrighten should have applied to the Orangeburg college instead of the University of South Carolina Judge Soper observed that at the time there was no such Negro law school. Columbia S. C.

"What sense could there be in applying to a school that doesn't exist? That's absurd. He doesn't have to wait until you (the state) (the state) have got to admit him (Wrighten) to the University."

A suggestion by Robinson that Judge Waring's order was contrary to state law encountered Judge Soper's comment that "it does not strike down state law, it observes it."

U. S. Court Of Appeals Backs Negro Vote In South Carolina

13c Advertiser Montgomery, Ala.

RICHMOND, VA., Dec. 30.—(AP)—White primaries were declared illegal in South Carolina by the Fourth U. S. Circuit Court of Appeals Tuesday in a decision which, if upheld by the United States Supreme Court, may have far-reaching effects upon the political and economic structure of the Southern States.

Upholding a decision by District Judge J. Waties Waring, the appeals court blasted the contention of South Carolina Democratic Party officers that the party there is a "voluntary political association which can exercise its "constitutional right of membership" and that Negroes have "no more right to vote in the Democratic primary . . . than to vote in the election of officers of the Forest Lake Country Club." 12-31-47 Wed

"No election machinery can be upheld if its purpose or effect is to deny the Negro, on account of his race of color, an effective voice in the government of his country or the State or the community wherein he lives," said the appeals court decision, written by Judge John J. Parker, of Charlotte, N. C.

Governor P. Strom Thurmond and State Executive Committee Chairman W. P. Baskin, of South Carolina, declined to comment until after they had read the decision, but Irvine F. Belser, one of the party attorneys, said he had "no doubt that we will appeal" the decision to the nation's highest court.

Judge Waring, who enjoined South Carolina election officials from denying qualified Negro voters a voice in the primaries, said they constituted the real elections in that State.

Agreeing with this view the appeals court reiterated that "the political philosophy of the Declaration of Independence is that governments derive their just powers from the consent of the governed; (that) the right to a voice in the selection of officers of government on the part of all citizens is important, not only as a means of insuring that governments shall have the strength of popular support but also as a means of securing to the individual citizen proper consideration of his rights by those in power."

"The disfranchised can never speak with the same force as those who are able to vote," Judge Parker's decision asserted

U. S. Appellate Court Awards Teacher Back Pay

Chicago, Ill. 13c Chicago Defender

WASHINGTON, D. C.—(NNPA)—The United States Court of Appeals for the District of Columbia last Monday reversed a decision of the United States District Court, which held that Paul Cooke, a teacher in Minor Teachers College, was not entitled to an automatic pay increase of $100 a year, effective July 1, 1944, because he was on leave of absence teaching illiterate soldiers. Sat. 4-19-47

Cooke became a permanent teacher in the local public school system March 26, 1942. He was granted leave of absence from June 4, 1944, to June 30, 1944, to teach illiterate soldiers in an army camp in Maryland, which was recognized by school authorities as "vital to the national defense and the war effort." His leave was later extended to June 30, 1945.

Justice D. Lawrence Groner said it appeared to the court that Cooke was "throughout his leave of absence permanently employed as a teacher in the District Public Schools."

An Opportunity for Statesmanship

Constitution

Three Southern Judges, in the Confederate Capitol of Richmond, Va., yesterday upheld a decision by the Southern District Court of South Carolina that qualified Negroes cannot be barred from the South Carolina "white primary." 13c

Said the court:

"No election machinery can be upheld if its purpose or effect is to deny to the Negro, on account of his race or color, an effective voice in the government of his country, or the State or community wherein he lives." Atlanta, Ga.

The Court, earlier, had specifically ruled out the South Carolina white primary, which had been hurriedly arranged after the U. S. Supreme Court decision, by voting out of the State code each and every State law relating to the primary in South Carolina. Wed. 12-31-47

Thus the Court disposed of the always specious argument that if there were no State laws relating to the party it became, in effect, a private club able to write and enforce its own membership requirements.

Georgia's white primary law, which failed in the change of administrations earlier in this year, was largely copied from the South Carolina primary rules and regulations. Its proponents used the South Carolina action in arguing their bill vigorously as it could, passage of the proposed Georgia white primary. We did so for two reasons which we believed sound. One was that the bill was illegal and would be thrown out by the courts. It was a subterfuge and no amount of sophistry could make it anything else. The law does not recognize subterfuges. Sec- ondly, we argued that it did not matter, that many persons did desist on the futile white primary plan and to adopt a qualifications law.

The record reads that the late Eugene Talmadge, the present Acting Governor, M. E. Thompson, and a committee appointed by the Governor-elect, supported and wrote the white primary law which was introduced. Acting Gov. M. E. Thompson, then the Lieutenant Governor-elect, assisted in writing the bill and publicly spoke for its enactment. So much for the record. Wed. 12-31-47

Let Georgia, and the candidates for Governor, now revise their plans.

Let us go into the 1948 race without a "nigger" primary and election laws which will be legal; within the law, not outside it.

It is a real opportunity for statesmanship.

South Carolina Loses

Courier, Pittsburgh, Pa

South Carolina's policy of discrimination against Negroes in its tax-supported university system received a heavy blow the other day when the Fourth United States Circuit Court dismissed its appeal from a decision requiring it to accept a Negro law student at its State university unless a comparable legal education was given him elsewhere.

Sat. 12-6-47

Ruling that South Carolina's appeal was premature, the Court ordered it dismissed without prejudice, which means sending it back to the U. S. District Court in Charleston, S. C., whch has already upheld the contention of the colored student, John Wrighten, that he is entitled to a law education in the State university "on a complete parity and equal in all respects."

Probably anticipating the action of the U. S. courts, North Carolina has hastened to establish a three-professor law school at South Carolina State College at Orangeburg, a segregated colored institution.

South Carolina's attorney declared that the decisions of the courts "were greatly disturbing to us," which is certainly a masterpiece of understatement.

Of course these favorable decisions do not mean that the doors of South Carolina's State university will swing open to Negroes tomorrow, but it does fairly insure that the days of color discrimination in the State's higher education system are about at an end.

The World of Labor

Whites-Only Unionism Rapped Again by Court

By George Morris

Daily Worker

New York, N.Y. Mon. 12-8-47

WHITES-ONLY UNIONISM received another judicial blow the other day when U.S. Circuit Justice Alexander Holtzoff issued an injunction in Washington forbidding the Brotherhood of Locomotive Firemen and Enginemen and two Southern rail lines from continuing a discriminatory agreement. This is the first federal injunction of this kind. It follows the line already set in the 1944 U. S. Supreme Court ruling on the case of a Negro fireman named Toni Tunstall.

The fight, waged by many groups of Negro firemen and other railroad workers in the South who were forced to organize outside BLFE ranks, began with a 1941 agreement. In that agreement, the whites-only Brotherhood arranged with the roads to squeeze out Negro firemen by limiting them to 50 percent in most categories, barring them from "promotable" positions and similar tricks. As a result Negro firemen with 20 and 30 years seniority had to give way to white newcomers.

Mon 12-8-47

AFTER THE HIGH COURT'S OPINION, declaring illegal the agreement that bounced Tunstall off his clean job on a Dieseled passenger train back to a dirty coal burner, the Negro firemen sued the union. A Federal district court awarded him $1,000 in damages and his old job. But the BLFE, still stalling by a further appeal to the high court, continued its "squeeze-out" agreement. The Holtzoff injunction orders an immediate end to discriminatory practices against 1,200 Negro firemen on the Atlantic Coast Line and Southern Railroads without monkey-business.

Chances are the high court will not even consider the appeal of the BLFE or the railroads. There seems no loophole left for "Confederate unionism" if one reads the opinion of the high court rendered in the Tunstall case. Here is part of the opinion of Justice Frank Murphy:

"The utter disregard for the dignity and the well-being of colored citizens shown by this record is so pronounced as to demand the invocation of constitutional condemnation. To decide the case and to analyze this statute solely upon the basis of legal niceties, while remaining mute and placid as to the obvious and oppressive deprivation of constitutional guarantees, is to make the judicial function something less than it should be.

"The cloak of racism surrounding the actions of the Brotherhood in refusing membership to Negroes and entering into and enforcing agreements discriminating against them, all under the guise of Congressional authority, still remains. No statutory interpretation can erase this ugly example of economic cruelty against colored citizens of the United States. Nothing can destroy the fact that the accident of birth has been used as the basis to abuse of individual rights by an organization purporting to act in conformity with its Congressional mandate. [Murphy means the Railway Labor Act].

"The constitution voices its disapproval whenever economic discrimination is applied under authority of law against any race, creed or color. A sound democracy cannot allow such discrimination to go unchallenged. Racism is far too virulent today to permit the slightest refusal, in the light of a Constitution that abhors it, to expose and condemn it wherever it appears in the course of a statutory interpretation."

Daily Worker

IT WAS NEVERTHELESS interesting to read an editorial of the Dec. 6 **Pittsburgh Courier** in which this leading Negro paper concurs in the feeling we expressed earlier, that the **BLFE** appeal has little chance. But the **Courier** editorial adds **"especially since the provisions of the Taft-Hartley Act guard against any such union dictatorship."**

The **Courier** is still kidding the Negro people with the illusion that there is the slightest protection against discrimination in the law.

If the **Courier** really believes that the Taft-Hartley Law is protection against whites-only unionism, **then its editors should explain why it is that the International Association of Machinists whose ritual bars Negroes, was the first to comply with the law? Has anyone heard of a single case of NLRB certification denial to the IAM because of its Caucasian clause?** You'd hear soon enough if an IAM local, with an officer who didn't register non-Communist, tried to obtain certification.

New York, N.Y.

South Carolina Negroes Win Vote In Democratic Primary Elections

New York, N.Y. Times

Sun. 7-13-47

By The Associated Press.

CHARLESTON, S. C., July 12 (AP)—South Carolina Negroes won a court victory today in their fight for the right to participate in the state's Democratic primary, limited by party rules since 1944 exclusively to "white Democrats."

Federal Judge J. Waties Waring held that "Negroes are entitled to be enrolled to vote" in the Democratic primaries. The case was brought by George Elmore of Columbia, who contended that he had been prevented from enrolling because of his color.

In the argument of the Elmore case early in June, attorneys for the Richland County (Columbia) Democratic Executive Committee and primary managers in one Columbia Democratic club, named as co-defendants, pointed out that in 1944 South Carolina repealed all statutes pertaining to primaries. Thus, they contended, the party had become a private organization with full authority to stipulate who was entitled to membership.

"To say that there is any material difference in the governance of the Democratic party in this state prior to, and subsequent to, 1944, is pure sophistry," said the judge. Sun. 7-13-47

The Georgia legislature provided for a similar primary set-up by an act passed early this year but it was vetoed.

No comment was forthcoming from Democratic party officials immediately, nor from counsel for the defendants. Negro leaders, however, were quick to react. At Columbia, John H. McCrary, head of the progressive (Negro) Democratic party, called a special convention to meet in Columbia Wednesday to plan its future course. Sun. 7-13-47

J. M. Hinton, also of Columbia, president of the state chapter of The National Association for the Advancement of Colored People and executive secretary of the South Carolina Negro Citizens Committee, prepared a demand upon party officials that they make "provisions immediately to include all qualified Negro voters," on the party's rolls.

Judge Waring, in another case, turned down the petition of John H. Wrighten of Charleston, for a court order directing his admission to the University of South Carolina Law School, but he ruled that the applicant would be entitled to enter unless by the opening of the next school year the state provided an adequate course in the College for Negroes at Orangeburg. Sun. 7-13-47

One other alternative was possible, said the court. That would be that "the state furnish no law school education to any persons of either the white or Negro races."

U. S. Court Rules Negro Has S. C. Primary Vote

RICHMOND, Va., Dec. 30—(AP)—In a decision expected to have far-reaching effect throughout the South, the United States Fourth Circuit Court of Appeals ruled Tuesday that Negroes should have a right to vote in Democratic primaries in South Carolina.

Democratic Party officials in appealing a lower court decision had argued that the Democratic Party in South Carolina is "a voluntary political association which can exercise unrestricted choice of membership."

The Appelate Court held, however, that "there was no error" in the decree entered by District Judge J. Waties Waring in which he enjoined South Carolina Democratic Party officials from denying qualified Negro voters a voice in the primaries.

The case is expected to be carried to the United States Supreme Court, where a decision upholding the District and Circuit Courts would have widespread effect on the South's economic structure.

The appeal was argued Nov. 18 before Senior Circuit Judge John J. Parker, of Charlotte, N. C., Circuit Judges Morris A. Soper, of Baltimore, and Armistead M. Dobie, of Charlottesville.

The Court's opinion, written by Judge Parker, reiterated that "the political philosophy of the Declaration of Independence is that governments derive their just powers from consent of the governed; (That) the right to a voice in the selection of officers of government on the part of all citizens shall have the strength of popular support but also as a means of securing to the individual citizen proper consideration of his rights by those in power."

The opinion added:

"The disfranchised can never speak with the same force as those who are able to vote."

The opinion gave the following summary of election procedures in South Carolina which led to Judge Waring's decree:

"For half a century or more, the Democratic Party has absolutely controlled the choice of elective officers in the State of South Carolina. The real elections within the State have been contests within the Democratic Party, the general elections serving only to ratify and give legal validity to the Party choice . . . "

A complete set of primary laws was in effect in the State, the opinion said, when the Supreme Court of the United States ruled in April, 1944, that the right to vote in the primary election held under State laws might not be denied on the ground of race or color.

"Immediately following this decision," the opinion continued, "the then Governor of South Carolina convened the State Legislature and recommended that it repeal all laws with relations to primaries with the avowed purpose of preventing voting by Negroes in the Democratic primaries of the State."

These recommendations were followed so fully, the opinion declared, that Democratic Party officials, in arguing their appeal, were able to assert:

"Plaintiff has no more right to vote in the Democratic Primary of the State of South Carolina than to vote in the election of officers of the Forest Lake Country Club or for the officers of the Colonial Dames of America."

The Appeals Court rejected this argument, declaring:

"No election machinery can be upheld if its purpose or effect is to deny to the Negro, on account of his race or color, an effective voice in the government of his country or the State or community wherein he lives."

13c 1947 Judge Irvin Mollison

Judge Mollison's Ruling Sets Legal Precedent

Defender Chicago, Ill.
(13c) Sat. 8-23-47

NOGALES, Ariz. — In a precedent-making decision in U.S. Customs Court here last week Judge Irvin Mollison ruled for the Greene Cattle Co. of Cananea, ordering the government to refund to the company excess duties paid for livestock exportation. Sat. 8-29-47

Judge Mollison, former member of the Chicago Board of Education and once prominent member of the Illinois Bar Association, presided in Custom Court in the Santa Cruz County courthouse and brought the court's calendar to a close with his notable ruling.

In making the decision, Judge Mollison based it upon the fact that each head of cattle gains at least five pounds in rainy weather due to the adherence of mud and moisture, and that the Greene Co. had paid the government for this excess weight due to weather conditions. The company, through its attorney, Phillip Stein, of Los Angeles, sought a refund because the exported livestock had stood 24 hours in the rain prior to shipment. Chicago Ill.

Richard Welsh of New York, special assistant attorney general, represented the government in the suit. Among those who testified for the Greene Co. was W. G. Bowman, of Tucson, a former collector of customs. Defender

U. S. Supreme Court Upholds Charges of Rail Workers' Bias

WASHINGTON, D. C.—The Supreme Court Monday handed down an opinion that in 1941, an agreement signed by the Brotherhood of Firemen and Engine Men and twelve southeastern railroads, illegally discriminated against Negro firemen. The court refused to hear an appeal by the Brotherhood.

EXTRA

The agreement signed in February, 1941, limited the number of Negro firemen assigned to each class firing job to one-half of the total. Two months later an amendment was added imposing further limitations on the seniority and job opportunities of Negro firemen.

Tom Tunstall, Negro fireman for the Norfolk Southern Railway, brought suit on behalf of all the Negro firemen on the railroad. He sought an injunction against enforcement of the agreement and damages from the union.

Negroes are not admitted to the Brotherhood, but it serves as their bargaining agent.

A number of similar cases involving Negro firemen employed by other railroads have been pending in the lower courts, awaiting the Supreme Court ruling in the Norfolk Southern case.

A Federal District Court at Norfolk, Va., where Tunstall's suit was brought, ruled that the purpose of the agreement by the Brotherhood and Norfolk Southern was to eliminate Negro firemen from the service. The Brotherhood appealed when the Fourth U. S. Circuit Court of Appeals upheld the ruling. This brought the case to the Supreme Court.

So now, Negro firemen come into their rights.

1sd 1947

JUSTICE VINSON RULES IN FAVOR OF ORSEL M'GHEE

Chronicle
Detroit, Michigan
13 Sat. 5-17-47

Graves, Dent, Carry Case Against Restrictions To Highest Court

Another round in the fight to test the legality of restrictive covenants in Michigan was won last week when the United States Supreme Court granted a stay of proceedings in the Sipes vs. McGhee restrictive covenant case.

This action by the U.S. Court delays the action of the Michigan State Supreme Court which ordered the McGhees to vacate their home on Seebaldt, where they have lived for more than two years.

Graves, Dent

The case for the McGhees was presented by Willis M. Graves and Francis Dent, NAACP attorneys, who have been handling restrictive covenant cases for the branch for several years.

The writ granting the stay of proceedings in the McGhee case was handed down by Chief Justice Fred Vinson.

The McGhee case, originally heard in Wayne County's Circuit Court, has been carried through all Michigan courts, and is now to be heard by the U.S. Supreme Court.

Argue 14th Amendment

The NAACP, in presenting this question to the court, has argued that the 14th Amendment to the U.S. Constitution which states that "No state shall make or enforce a law which abridges the rights of citizens" applies to restrictive covenants, which curtail the movements of Negroes and limits the areas in which they may live.

The attorneys set forth the argument that restrictive covenants abridge the rights of citizens and therefore are not enforceable by the courts.

Edward A. Swan, executive secretary of the Detroit NAACP, declared: Sat. 5-17-47

"We will continue to fight all of the other cases we have pending in the courts now until a favorable decision is reached. To do this, we need sufficient funds to pay court costs and fees which are tremendous. Although many organizations and individuals have contributed generously, we still need a great deal of money if we are going to win this fight. All groups and individuals who have not contributed are urged to do so now."

U. S. Supreme Court Turns Down Jackson Case-Boy Must Die

Memphis, Tenn. World Tues. 6-17-47

Tues. 6-17-47

Fred Jackson, given the death penalty over a year ago in connection with the murder-arson-attack on the Goss family (white) must die in the electric chair for the crime. An appeal from the state supreme court to the U. S. Supreme Court was turned down this week by the highest tribunal. The state court will reset a date for the execution.

13

The 16-year-old condemned youth had his case appealed to the U. S. Supreme Court thru Attorney Grover McCormick on grounds that he was not given a fair trial when the case was prosecuted against him the Shelby County Criminal Court. His only defense was handled by a public defender, Hugh Stanton provided by the state.

132

Following an appeal from Jackson's parents, Mr. and Mrs. Young Jackson, of near Shady Grove Rd., the Memphis World newspaper took the initiative to hold a mass meeting in behalf of the boy for purpose of raising funds with which the case could be taken to the highest court. It took $2,500.00 to appeal the case, and the World was asked to help secure about half of this amount or $1,200.00. Through financial aid from churches of the city and county, and organizations and individuals, all except about $150.00 of this sum was raised . .

In reply to a criticism offered against the publication and the churches for offering finance to Jackson's parents in their effort to save him from the chair, Editor L. O. Swingler, in a direct statement to the Memphis Press-Scimitar, declared:- Tues. 6-17-47

"We were given about $1200 to raise to complete payment of the fee charged by Jackson's attorney and we have obtained all except about $150 of that. Since the Supreme Court has ruled against Jackson, we are not asking for further funds.

"However, it should be understood that win or lose it was necessary to pay the lawyer's fee for handling the appeal. This fee totaled $2500 and about $1300 had been raised when the mass meeting was held at which we were asked to help raise the rest through the columns of our paper. Tues. 6-17-47

"We are abiding by the decision of the Supreme Court, in good faith, as we said we would and no further appeals are being made since completion of the amount needed to pay the lawyer's fee is in sight.

"We have in mind a long-range program for building up a defense which will take care of financing appeals in cases that we feel may merit it in the future. This we want to do so it will not be necessary for the state to finance a public defender for such cases. However, this is separate and distinct from the Jackson case fund, and this long-range program is in no sense being considered in any spirit of retaliation, but just as a matter of course to see that all legitimate efforts are made to have justice done."

Supreme Court Won't Review S. C. Jury Case

Sat. 10-25-47

WASHINGTON — (ANP) — The Supreme Court Monday refused to review a case challenging North Carolina's system of picking jury panels as discriminating against Negroes and non-taxpayers.

The complaint was directed at the method of drawing panels in Forsyth County. Prospective jurors were limited to property owners. Separate jury lists were kept of white and Negro jurors and poll tax payers. Evidence introduced at the trial indicated that only a dozen Negroes served on juries in the County from 1936 to 1946.

NATION'S CAPITAL

- By -
Louis Lautier
For the NNPA

Justice Hugo Black Asserts Supreme Court Errs In Holding That 14th Amendment Does Not Provide For Applying Bill Of Rights To States

Journal & Guide
Norfolk Va. Sat. 9-27-47

WASHINGTON, D. C.—In the hubbub of the capital in late June one important decision of the United States Supreme Court was virtually overlooked. It was the 5-4 decision in the case of Admiral Dewey Adamson, a colored man who was convicted, without recommendation for mercy, by a jury in a California Superior Court for first-degree murder. The death sentence was imposed.

Any case in which human life is at stake is important, but this case is more important because Justice Hugo Black, in a dissenting opinion, joined in by Justice William O. Douglas, raises the question of whether the court has not erroneously interpreted the 14th amendment in holding that it did not make provisions of the Bill of Rights applicable to the states.

The Adamson case challenged the provisions of California law which permit the failure of a defendant to explain or deny evidence against him to be commented upon by the court and by counsel and to be considered by court and jury.

The majority opinion, delivered by Justice Stanley F. Reed, upheld Adamson's conviction, following precedents holding that the clause of the fifth amendment, protecting a person against being compelled to be a witness against himself, was not made effective by the 14th amendment as a protection against state action on the ground that freedom from testimonial compulsion is a right of national citizenship, or because it is a personal privilege or immunity secured by the federal Constitution as one of the rights of man that are listed in the Bill of Rights.

The court's decision in the Slaughter House case in 1873 established a distinction between national and state citizenship, which has ever since deprived colored people of the full protection of their civil rights. Sat 9-27-47

There followed the decision in the Twining case in 1908, in which the court said that privileges and immunities of citizens

COURT SAVES NEGRO DOOMED BY WHITES

Times
New York, N.Y.
Dec. 12-9-47

U. S. Tribunal Orders Retrial Over Restricted Jury List in Mississippi Killing

WASHINGTON, Dec. 8—On the ground that Negroes had been excluded from the jury which convicted him of murdering a white man, the Supreme Court today saved Eddie (Buster) Patton, Mississippi Negro, from the electric chair, and ordered a new trial. The verdict, announced by Justice Hugo L. Black, was unanimous.

Patton was convicted in February, 1946, of slaying Jim Meadows. He held that a confession had been extorted from him. But his plea was that the grand and petit jury lists of Lauderdale County did not contain the name of a single Negro. Dec. 12-9-47

There had been, his counsel argued, a "systematic, intentional, deliberate and invariable practice" for many years to bar Negroes from jury duty. They gave uncontradicted evidence to show that no Negro had served on the grand or petit juries for thirty years or more. Times

The Supreme Court acted with unaccustomed swiftness in the case. It was argued only a little over two weeks ago, and since that time the tribunal had been in recess. New York, N.Y.

In 1940, Justice Black noted, there were 12,511 Negro adults in Lauderdale County out of a total population of 34,821.

Sixty-seven years ago, Mr. Black went on, the Supreme Court held that state exclusion of Negroes from grand or petit juries denied Negro defendants in criminal cases the equal protection of the laws guaranteed by the Constitution. "A long and unbroken line of our decisions" since then has reiterated that principle, he added, and this was done regardless of how the discrimination was carried out.

Through Mr. Black the high court criticized the Mississippi Supreme Court for holding "irrelevant the key fact that for thirty years or more" no Negro had served on the juries.

"When a jury selection plan, whatever it is, operates in such a way as always to result in the complete and long-continued exclusion of any representative at all from a large group of Negroes, or any other racial group, indictments and verdicts returned against them by juries thus selected cannot stand," Justice Black wrote. Dec. 12-47

HIGH COURT SPANKS DIXIE

Afro-American
Baltimore, Md.

(AN EDITORIAL)

Mississippi in particular, and Southern States in general, learned last week that the U.S. Supreme court does not intend any longer to put up with the subterfuges by which Dixie has denied equal protection of the laws to its colored citizens. Sat. 12-20-47

In a unanimous decision, read by Justice Hugo Black, the court reversed the conviction of Eddie (Buster) Patton, who was convicted more than a year ago by a lily white jury on charges that he had murdered a white man in Lauderdale County, Mississippi.

Patton charged that a purported "confession" was extorted from him and that although the county in which he was tried has a population which is nearly half colored, no colored person has been called for jury service in 30 years.

All of us know the extreme difficulty, and, in some instances, the absolute impossibility, in obtaining a fair trial for colored persons in many parts of the South if the plaintiff is white. We know all too well the devious forms through which the constituitional rights of colored citizens have been abridged and circumvented. Sat, 12-20-47

There have been few cases more flagrant than the Patton case, and we applaud the quick action of our highest tribunal in ordering a new trial.

Placing a human life in jeopardy through "purposeful and systematic discrimination" is old stuff in Dixie, so we welcome the Supreme Court's affirmation of a fundamental principle of the Fourteenth Amendment.

We hope that it gives new impetus to the continuing fight for civil rights which has been highlighted by the report of the President's Committee on Civil Rights and by the Freedom Train. The forward-looking element of white Southerners which is steadily increasing, will, we believe, join us in this.

Bulwark Against Bias

Courier, Pittsburgh, Pa.

Last week the Supreme Court of the United States reaffirmed the long-standing conviction that it is the great bulwark against color bias in this country. Sat. 12-20-47

On its decision hung the fate of Eddie Patton, colored, convicted of murder and sentenced to the electric chair in Mississippi.

However, his counsel argued before the august body that there had been a "systematic, intentional, deliberate and invariable practice" of barring Mississippi Negroes from jury duty in Lauderdale County. Sat. 12-20-47

Uncontradicted evidence showed that there had been no Negroes serving on the grand and petit juries in that county for the past thirty years.

Unhesitatingly and unanimously the high court ruled against the State and in favor of the defendant, thus proving again that it is the greatest bulwark Negroes have against color discrimination.

This decision, snatching a colored man from the death chair, should reaffirm our faith in the democratic process and our confidence in the American system of government.

At this time our society is under sharp criticism because of its alleged shortcomings, especially where colored people are concerned, but there must be renewed confidence in any system which reaches down into the lower depths to protect the rights of the most unfortunate and underprivileged.

2 in Bronx Killing Win Death Stay On Negro Exclusion in Special Jury

Times
New York, N.Y.

Supreme Court Orders New Trial in Murder of Honor Detective—Unfair Choosing of Blue-Ribbon Panel Denied

Dec. 12-23-47

By LEWIS WOOD

Special to THE NEW YORK TIMES.

WASHINGTON, Dec. 22—Two men sentenced to die within the next three weeks for the slaying of a New York honor detective in the Bronx on Dec. 13, 1946, today received a stay of execution from the Supreme Court, which will review their case. Times

The men were George Cornelius Moore and Lester Haughton, both of New York. They were convicted of murder in the killing of Detective James M. Burke, member of the Police Honor Legion and holder of eight departmental citations, during a holdup at Ray's Liquor Store, 1439 Webster Avenue, between 171st and 172d Streets. 12-23-47

In appealing their conviction by the New York State courts, Moore and Haughton, both Negroes, alleged that Negroes had been systematically excluded from the jury panel and that the use of a special "blue ribbon" jury violated their constitutional rights.

Twice in recent weeks, the Supreme Court has ordered new trials on the ground of Negro exclusion from juries. One of these grants was to a Mississippi Negro, "Buster" Patton, convicted of murder.

On the other hand, the court by 5 to 4, last June, sustained the constitutionality of New York blue ribbon juries, in upholding the conviction of Joseph S. Fay and James Bove, labor union officials, for extortion.

The killing of Detective Burke was regarded as especially brutal. Police Commissioner Arthur W. Wallander was deeply moved by the policeman's death; District Attorney Samuel J. Foley of the Bronx said he felt "like crying."

Late on the afternoon of Dec. 13, Detective Burke had been stationed in Ray's Liquor Store. Moore, then 34 years old, and Haughton, 24 years old, entered, the former, said New York State, carrying a 45-calibre automatic. Richard Shaw, husband of the store's owner, came forward, thinking the men were customers. Moore ordered Shaw away. Detective Burke stepped from behind some boxes. Moore lunged for Burke and they grappled.

Shot after shot was fired. Moore and Haughton rushed from the store. Detective Burke slumped over some packing cases. He had been struck in the head by two bullets. But, dying, he had fired six of the bullets from one of his service guns. New York, N.Y.

Description of the men was scanty at first. Police authorities said they were Negroes. On Feb. 7, they were arrested. Detectives said Moore confessed firing seven shots. 12-23-47

Convicted of first degree murder last April in the Bronx County Court, the verdict and sentence of death were uanimously affirmed Nov. 21 last by the New York Court of Appeals. Execution was set for the week beginning Jan. 5, 1948.

Both Moore and Haughton, said Mr. Foley, made confessions and signed them. Each admitted he had a previous criminal record.

Unfair Exclusion Denied

District Attorney Samuel J. Foley of the Bronx, who prosecuted the convicted murderers, was not available for comment yesterday. However, two of his assistants, George Tilzer and Herman J. Fliederblum, said that there had been no unfair exclusion of Negroes from the jury and that a special jury was constitutional.

Before the trial began, the defense attorney, John F. Wilkinson, had raised the question of the exclusion of Negroes from the jury trying the Negro defendants. A hearing was held and the trial proceeded.

A member of Mr. Foley's staff reported yesterday that Negroes were among the special panel of 800 from which the jury was chosen. He said it was just chance that Negroes were not among the jurors.

A clemency hearing in the case was scheduled to go before Gov. Thomas E. Dewey on Dec. 30.

13d 1947

Met Life's Jim Crow Again Upheld

Supreme Court Justice Felix C. Benvenga, for the second time in four months, yesterday upheld Metropolitan Life's Jim Crow policy in its Stuyvesant Town housing project.

Shad Polier, vice-president of the American Jewish Congress, said that the decision will be appealed to the Appellate Division as soon as possible.

The case is being fought by Polier as a taxpayer with the aid of the AJC, the National Assn. for the Advancement of Colored People, and the American Civil Liberties Union, in behalf of three Negro war veterans whom Metropolitan Life rejected as tenants under its admitted no-Negro policy.

"We cannot allow to stand unchallenged," said Polier, "a legal theory which will certainly encourage banks, insurance companies, and other large owners of real estate to establish ghettos through the use of governmental powers of condemnation proceedings and the enjoyment of tax exemptions."

Benvenga's decision dismissed Polier's suit "on the merits" and said "the Constitutional question here present was resolved in favor of the defendants."

Last July, in denying a temporary injunction against Metropolitan, Benvenga said:

"It may well be that, from a sociological point of view, a policy of exclusion and discrimination on account of race, color, creed, or religion is not only undesirable but unwise. But the wisdom of the policy is not for the courts. That was and is a matter for the Legislature."

Felix C. Benvenga.

The ruling, as in the earlier case, upheld the Metropolitan Life Insurance Company's Jim-crow policy in its Stuyvesant Town housing project, which refused to admit three World War II veterans because they were colored.

Holds Color Bars Legal

The case was brought by Shad Polier, vice-president of the American Jewish Congress, as a taxpayer, with the aid of AJC, NAACP and the American Civil Liberties Union.

Justice Benvenga's decision dismissed Polier's suit "on the merits" and stated "the Constitutional question here present was resolved in favor of the defendants."

N.Y. Project Ban Court Sanctions

Upholds Lily-White Homes Plan 2nd Time

NEW YORK — The right of a government - subsidized housing project to restrict occupants on the basis of race was upheld here last week for the second time in four months by Supreme Court Justice

THE TUNSTALL CASE

Discrimination. Tom Tunstall is a Negro fireman employed by the Norfolk (Virginia) Southern Railway Company. Because of a US Supreme Court decision, Tunstall's employer and a Jim Crow firemen's union will have to accord him the seniority privileges to which he is entitled.

It took Tunstall six years of battling in the courts to win the fight for his seniority rights, but it was worth the struggle to him and to other Negroes who are excluded from Southern railroad unions and yet are forced to abide by discriminatory agreements made by those unions with management.

In 1941, Tunstall refused to accept a union-management pact that denied Negro firemen the choice train runs they rated on a seniority basis. He sued in Virginia courts, which decided they had no jurisdiction.

On appeal to the Supreme Court, Chief Justice Harlan Stone ordered the Virginia court to try the case on its merits. The outcome of the retrial was a $1,000 damage award and an injunction against the union-railroad agreement.

WHERE TO LOOK FOR PROGRESS

Life Magazine in a recent editorial on "The State of the South," declares that the solution to the racial problem lies in the creation of 5 million more good jobs in the sixteen Southern States.

If that could happen, says Life, the average southern income would reach the national level. The colored worker in the South could then compete with the white worker for a full loaf rather than a half loaf of bread.

The South would have money enough to send all of its children to school, to call in the doctor when a baby is born.

We have no objection to any such industrial improvement to the South which will bring them 10 million instead of 5 million jobs but we are not convinced that that would still solve our problem there.

In areas of Texas and Oklahoma, where wealth has come to the farms from oil and per capita earnings are as high as in any section of the country, race prejudice has not diminished.

Booker T. Washington had the idea that the race problem could be solved by educating the colored people to become self sufficient and to own their own homes.

One out of every 4 colored farmers in the South owns his own farm but that has not saved him from segregation, jim crow, lynching and doing without the ballot. The richest colored man in the South is as much in danger of mob law as the poorest or the most ignorant.

All of the important changes which have come in the South in recent years have come by action of the Federal Courts—teachers' salaries have been equalized; State universities have been opened; segregation has been banned on inter-state carriers; polling booths have been opened; the mob spirit has been cowed, colored people have been put on juries.

Whenever the U.S. Supreme Court has put its foot down and said "This is the law," the South has generally respected its decision.

If this is the way changes have come in the past why shouldn't they continue to come that way in the future?

Wins Dispute With Department Store

ST. LOUIS— Mrs. Marie Lee, 1118 N. Whittier st. here, the subject of the dispute between the May Department stores, operator of the Famous-Barr Co., here and the AFL Building Service Employes' International Union, saw the U. S. Supreme Court order the store cease making anti-union statements.

The company, which provides Jim Crow lunch rooms for its Negro patrons, was ordered to offer reinstatement with back pay to Mrs. Lee, a discharged elevator operator.

The company contended the board's order was not supported by substantial evidence. It appealed to the Supreme Court after the U. S. Circuit Court in St. Louis upheld the board's order.

The company contended the discharge was for disobedience, insubordination and repeated violation of store rules at the Famous-Barr Co.

The Elevator Operators' and Starters' Union, Local 50E, AFL said Mrs. Lee was fired because she assisted in a union organizing campaign. The National Labor Relations Board order forbade further activities of the store against the union.

Supreme Court Orders New Trial For Negro

WASHINGTON, Dec. 8.—(AP)—Because no Negro had sat on a jury in Lauderdale County, Miss., for 30 years, the U. S. Supreme Court Monday ordered a new trial for Eddie (Buster) Patton, Negro convicted or murdering a white man.

Justice Black, in the high court's unanimous opinion, said:

"When a jury selection plan, whatever it is, operates in such a way as always to result in complete and long-continued exclusion of any representative at all from a large group of Negroes or any other racial group, indictments and verdicts returned against them by juries thus selected cannot stand."

The case was sent back to Mississippi for "proceedings not inconsistent with this opinion."

Negro Jurors

The supreme court of the United States the other day reversed the Mississippi supreme court and ordered a new trial for a Negro convicted of murdering a white man because for 30 years no Negro had served on a jury in Lauderdale county, where the case was tried.

The opinion of the court, written by Justice Black, was unanimous.

As Justice Black pointed out, the decision is nothing new. For 67 years the supreme court has been striking down the verdicts of juries from which Negroes were excluded.

"When a jury-selection plan, whatever it is, operates in such a way as always to result in complete and long-continued exclusion of any representation at all from a large group of Negroes or any other racial group, indictments and verdicts returned against them by juries thus selected," he declared, "cannot stand."

This doesn't mean, however, that the guilty should go unpunished. It means merely, the court said, that they must be tried as the constitution requires.

There is, of course, nothing to indicate that any verdict would be different under a plan whereby Negroes qualified for jury service are included, as they should be, on jury panels. And it is likely, if Eddie Patton, the Negro whose death sentence was voided by the decision, was otherwise given a fair trial, that he will be convicted again and sentenced to death. All that he has won is a new trial before a constitutional jury.

And a great many Southern jury verdicts could be overturned on the same ground. That they are not is due simply to the fact that the Negroes convicted by juries from which all Negroes are excluded often do not have the money to finance an appeal to the supreme court, or do not care to spend the money to get a little more time in order to be convicted again.

The South in protection of its courts and its system of justice long since should have acted to make certain that Negroes were represented on juries. The previous decisions were warning enough and the federal courts have set the example and proved the workability in every Southern state of the system that the supreme court decisions demand.

Negro Firemen Upheld

The United States Supreme Court Monday, in refusing to review the action of the Circuit Court of Appeals' ruling against the Brotherhood of Locomotive Union clears the pathway for Negro firemen to press their rightful claims for upgrading and promotability as all other firemen of long tenure and seniority. 13a World, Atlanta, Ga

It was the contention of the Brotherhood that the Circuit Court at Baltimore had made a number of errors, chief of which it claimed, was the charge of discrimination against Negro firemen. "Because the railroads do not permit Negroes to hold position of engineer is no reason why a bargaining agent representing them should use its bargaining power to deprive them of desirable positions as firemen which the railroads do not permit them to hold," declared the Circuit Court's opinion.

The case was filed by Tom Tungstall, a fireman for the Norfolk and Southern railway. The suit was a class suit in which all other Negro firemen manifested a keen interest, just as the suits for the equalization of educational opportunities in the South. Thu. 12-18-47

The victory is noteworthy. It means that the railroads will have to face up squarely to the ruling by promoting Negro firemen as their seniority provides or else discontinue hiring Negro firemen. It means that Negro firemen, henceforth, will be paid on an equal footing as others similarly situated. And it means an all-around improvement in the pay, working conditions and status for Negro firemen. Discrimination in job opportunities because of race and color is unconstitutional.

Anti-Negro Union Pact Outlawed by High Court

P.M. New York, N.Y.
Wed. Dec. 12-16-47

WASHINGTON

The Supreme Court ruled in effect that a railroad union which does not admit Negroes to membership must, nevertheless, protect from racial discrimination all workers affected by its contracts.

The ruling upheld a decision by the U. S. Circuit Court of Appeals at Baltimore which struck down an agreement between the Brotherhood of Locomotive Firemen and Enginemen, independent, and 13 Southwestern railroads.

The decision found that the agreement was intended to eliminate Negro firemen from railway jobs and awarded $1000 damages to Tom Tunstall, a Negro fireman, who brought the suit against the union. Tue. 12-16-47

In another labor case. the high court directed reinstatement, with more than three years back pay, of a Detroit foreman fired in 1944 for union activities. To the argument that the new Taft-Hartley Act wiped out the rights of foremen to join unions, the court held that the case in question antedated the Taft-Hartley Act and therefore was not covered by it. Meanwhile, it directed the lower court to rule on the constitutionality of Taft-Hartley sections concerning foremen. Tue. 12-16-47

In another case, the Court reversed a position taken in October, agreeing to consider the contention by Joseph Estin of New York that a Nevada divorce, carrying no alimony provision, should permit him to stop payments under a New York separation agreement.

Mississippi's Juries

News, Birmingham, Ala.

Little by little the customs of the country are being changed by court decisions, and it is all to the credit of this nation that its mores can be so affected without too much protest. So long as the people accept, as they should, the interpretations put upon local and national statutes by the courts, so long may we expect orderly government to go on. 13a 12-22-47

The Supreme Court of the United States is our nation's court of highest appeal. Once it has handed down an opinion, there is no further judicial recourse. Its recent reversal of the conviction of a Negro for murder in Mississippi has set up a whole new problem for Mississippi's own courts to solve. The Supreme Court held that racial discrimination has prevailed against service of Negroes on juries in Mississippi. 13a

Gov. Wright has announced that he and all other officials respect the court's mandate, but the problem presented "will be dealt with as should be done by a sovereign state." One wonders what exactly that statement means. Surely it cannot imply that the court had no right to interfere with Mississippi's system, no matter how entrenched the system may have been by long years of practice without challenge. Whatever the governor may have meant, the manner of building venires and selecting juries must now be changed.

The governor also insisted that no one, white or black, is dissatisfied with the way justice has always been carried out in Mississippi. That is a broad statement to make, one open to question. It may be true in Mississippi, as the governor says, but it isn't true in Alabama or anywhere else.

Another Precedent Set By The Supreme Court

Journal & Guide, Norfolk, Va.

THE policy of systematic exclusion of Negro Americans from jury service, solidly entrenched in the South since the Reconstruction era, finally has been subjected to the judgment of the United States Supreme Court. Sat. 12-13-47

In a sharply-phrased unanimous opinion, the court finds the system invalid in so far as it operates to indict and to bring verdicts against members of the jury-service excluded group. Sat. 12-13-47

Justice HUGO BLACK, himself a native southerner in delivering the high tribunal's history-making and momentous opinion said:

"When a jury selection plan, whatever it is, operates in such a way as always to result in complete and long-continued exclusion of any representative at all from a large group of Negroes or any other racial group, indictments and verdicts returned against them by juries thus selected cannot stand."

The ruling, handed down Monday, was the outgrowth of the court's review of a criminal case which reached that body from Lauderdale County, Mississippi, and effected a complete reversal of the Mississippi Supreme Court.

In Lauderdale County, EDDIE (BUSTER) PATTON, a Negro, had been convicted by an all-white jury of murdering a white man. His conviction was appealed to the State Supreme Court, defense counsel contending in effect, that the traditional policy of excluding members of the defendant's race from jury service in the county, constituted an impairment of his constitutional rights to a fair and impartial trial.

The state's highest court, by devious reasoning and calculations in defense of the county's jury-picking system, affirmed the conviction of the appellant.

Brushing aside the reasoning set forth by the Mississippi appeals court, Justice BLACK in the United States Supreme Court opinion aptly said; "it illustrates the unwisdow of attempting to disprove systematic racial discrimination in the selection of jurors by percentage calculations applied to the composition of a single venire."

These words are plain enough to be understood by the average layman. They ought to go ringing down to the supposedly learned members of the Mississippi Supreme Court, and doubtless will resound throughout history in every court in the land.

The precedent-shattering opinion, read by Justice BLACK, uproots another of the South's hitherto impregnable pillars of citizenship discrimination based on race.

Over a period of years, able lawyers appearing in court for Negro defendants, have leveled vigorous and persistent attacks upon the studied racial discriminatory practices in jury selecting. They have incurred many setbacks, but to their great credit, they persisted until this question reached the final adjudication of the nation's highest court.

The victory gained should be hailed by all liberty-loving Americans as a further affirmation of the ability of this country to preserve the civil rights of its citizens.

HIGH DEFENDER FOR THE NEGRO

Times, New York, N.Y.

For many years the Supreme Court of the United States has consistently upheld the right of the Negro in Southern communities to a fair trial free from the influence of bias or race prejudice. The latest opinion of the court, reversing the conviction of a Negro on principle has gradually been expanded la... a charge of murder, extends this right until it now includes eight states. The c... to a state where this issue had not famous Scottsboro decision of 1925 did c... been previously tested in the federal much to establish fairer rules of court T... courts—Mississippi, until recently the procedure. Yet, by one subterfuge or h... stronghold of "white supremacy." another, the doctrine of the court has f...

It was as long ago as 1879 that often been frustrated. In many South- e... the Supreme Court invalidated a Western communities it is still impossible o... Virginia statute of 1870 prohibiting for a Negro charged with rape or kill- u... Negroes from serving on juries. Since ing a white man to obtain a fair trial "... then the area of the South to, which by a mixed jury. Wed. 12-10-47

The Mississippi case was a particu-nation" by which no man's life should ...ded larly flagrant one. The defendant was be placed in jeopardy. Forward-look-The convicted a year ago on what he ing elements throughout the South will did claims was an extorted confession. welcome the court's ringing affirma-court The population of the county in which tion of incontestible human rights. ... or he was tried is almost half Negro. Yet has for thirty years there no Negro has ...th- ever been called to serve on a grand ...ible or petit jury. Justice Black, reading a ...kill- unanimous decision, held this to be ...rial "purposeful and systematic discrimi-

High Court Refuses Francis Case Review

Daily World Atlanta, Ga. 1-14-47

Wed. 2-12-47

WASHINGTON, D. C. —(NNPA)—Chances of Willie Francis, 17-year old youth, to escape a second trip to the electric chair went glimmering last Monday when the U. S. Supreme Court denied his motion for a rehearing of the decisions of Lousiana courts refusing him relief.

The high tribunal vacated its order of June 10, last, staying Francis' execution. Francis may now be executed as soon as a date for his electrocution is fixed by Louisiana authorities.

Unless the Louisiana Board of Pardons and Reprieves and the Governor recant and grant executive clemency, there is now nothing to prevent the State from exacting its "pound of flesh."

CLEMENCY REJECTED

Under Louisiana law, the Governor may not extend executive clemency unless the Board of Pardons and Reprieves so recommends. The Board of Pardons & Reprieves has already rejected Francis' plea for clemency.

By a 5-4 decision the United States Supreme Court on January 13 held that the State of Louisiana may carry out the death penalty, although Francis once went through the ordeal of preparation for execution, including receiving the last rites of the Catholic Church, and received through his body a current of electricity intended to cause death.

Francis was convicted on September 13, 1945, of murdering Andrew Thomas, white owner and operator of a drug store in St. Martinsville, Louisiana. The next day he was sentenced to death. At the time of the alleged crime Francis was 15 years of age. The evidence against him consisted chiefly of an alleged confession. No evidence whatever was introduced at the trial in his behalf.

2-12-47

Supreme Court Decides 5 To 4 Against Willie

Montgomery Adv 1-14-47

Journal 1-14-47

Montgomery Ala, 2/13

Railroads And Lawyers Concerned With Other Decisions Yesterday

By The Associated Press

The Supreme Court yesterday decided 5 to 4 that Willie Francis, 17, Negro slayer once saved by mechanical failure in the Louisiana electric chair, may be sent to the chair again.

Ruled that counsel for one side cannot require an opposing lawyer to disclose what he has heard from witnesses.

Applied a two-year limitation at the time in which a bank receiver may sue the estates of stockholders for assessments.

Declared the Fourth Division of the National Railroad Adjustment Board has jurisdiction over labor disputes involving yardmasters, dissolving a stalemate that had left the Board unable to function.

WASHINGTON, Jan. 13—(AP)—Willie Francis, condemned Negro holdup slayer, was strapped into the electric chair, the switch thrown, and nothing happened—but the Supreme Court ruled by a bare majority of one today that that is no reason to let him off.

"I guess a man's got to die sometime and I reckon my time has plum done come," said 17-year-old Willie in his cell at New Iberia, La., when told his appeal had failed. His laywers still may ask a rehearing.

The case was decided in a busy day of opinions and hearings as the court cleared its decks for arguments tomorrow in the appeal of John L. Lewis and his United Mine Workers from the injunction against a coal strike last Nov. 21 and the subsequent $3,510,000 fines for contempt. In other major decisions the court:

1. Narrowed the field of information which counsel for one side in a lawsuit may require the opposing lawyer to disclose. It ruled that unless there are unusual circumstances, what a lawyer learns from witnesses is private.

2. Strictly applied a two-year limitation rule on the time within which a bank received, suing stockholders on assessments, may sue their executors when the stockholders themselves have died.

Broke a stalemate which had held up action by the National Railroad Adjustment Board on labor disputes, involving yardmasters by ruling that the Fourth Division of the board, rather than the First Division, has jurisdiction.

Dulo - 1-14-47

Francis' counsel argued that Louisiana has no more right to send him to the electric chair a second time than it would have to try him twice for a single offense, but the majority of the court ruled against them.

"Even the fact that the petitioner has already been subjected to a current of electricity does not make his subsequent execution any more cruel in the constitutional sense than any other execution. The cruelty against which the constitution protects a convicted man is cruelty inherent in the method of punishment, not the necessary suffering in any method employed to extinguish life humanely."

The dissenters hinged their opinion on the cruel and unusual punishment aspect, holding that the attempt must be measured against a "lawful execution."

"The contrast," they said, "is that between instantaneous death and death by installments—caused by electric shocks administered after one or more intervening periods of complete consciouesness of the victim."

Justice Burton wrote that it would be "unthinkable" for a legislature to provide for death by repeated applications of electricity separated by days or hours. He and those who concurred with him urged that in the Francis case the question is this:

"How many deliberate and intentional reapplications of electric current does it take to produce a cruel, unusual and unconsitutional punishment?"

Justice Frankfurter pitched his conclusion on this language:

"In short the due process clause of the Fourth Amendment did not withdraw the freedom of a state to enforce its own notions of fairness in the administration of criminal justice unless, as it was put by Mr. Justice Cardozo, in so doing it offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.'"

Suggesting that the possibility of clemency is left open, Frankfurter added: "Short of the compulsion of such a principle this court must abstain from interference with state action no matter how strong one's personal feeling of revulsion against a state's insistence on its pound of flesh."

GLADSTONE WILLIAMS

Supreme Court Right On Willie Francis

Atlanta Constitution 1-14-47

WASHINGTON—The United States Supreme Court is being made the target of unjustifiable attacks, it seems, because of its recent decision in the Willie Francis electrocution case.

Certain racial groups, notably the National Association for the Advancement of Colored People, have been outspoken in their criticism of the Court and its findings in the case.

Thus it was that Walter White, Secretary of the Association, wrote a recent article in The Chicago Daily News criticizing Chief Justice Vinson and Justices Black, Reed, Frankfurter and Jackson for "hewing bitterly close to 'justice' and the 'law' while humanity and equity hung their heads in shame."

The Willie Francis case involves the young Louisiana Negro by that name who was sentenced to be electrocuted after conviction for a murder which he confessed.

Something went wrong with the mechanism of the electric chair at the time set for his execution, with the result that he experienced only a tickling sensation instead of the death portion that the sentence prescribed.

Double Jeopardy? Before the mechanism could be mended for a second attempt to carry out the judgment his lawyers rushed in with a writ to hold up the proceedings. A temporary stay of sentence was granted on the grounds of double jeopardy.

This is the doctrine, long established as a principle of law, which prevents the same sovereignty from punishing an accused twice for the same offense.

The Louisiana State Court upheld the right of authorities to put Willie in the electric chair a second time, whereupon an appeal was taken to the United States Supreme Court. The latter tribunal sustained the Louisiana Court by a five-to-four decision.

What is remarkable about the Supreme Court's decision is the narrow margin by which the judgment of the State Court was upheld.

If any criticism rests in the case at all it would seem to be on the score that the Supreme Court should be so closely divided on a question of law and justice.

The facts in the case seemed to be uncontested. The accused was convicted in a trial whose fairness was unchallenged. He was found guilty of shooting down a man in cold murder while engaged in a holdup. The laws of the State of Louisiana prescribed the death penalty for such an atrocious offense.

And yet four members of the august tribunal that sits as the highest court in the land would have turned the criminal loose on a technicality. It may even be presumed that the judgment of the lower court would have been reversed had Associate Justice Jackson been absent at the time of the decision, as he was most of last year because of his connection with the Nuernburg trials.

Point of Criticism Therein, it seems, lies the only point of criticism of the Supreme Court's decision. Its liberal elements outdid themselves in straining concepts of the law to the extremes they went.

No reasonable man, it would appear, could contend that double jeopardy was intended to go that far. Mr. Justice Reed, in delivering the majority opinion, correctly reasoned that there was no more double jeopardy because the electrical current failed the first time than in the instance of a second trial obtained by the State because of errors in the first trial in which a death sentence was opposed.

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The late and able Justice Cardozo expressed the same principle more concisely some years ago. "The culprit is not to go free," he said, "because the constable has blundered."

Were it otherwise it might be possible for the ends of justice to be defeated often by bribery or other arrangements whereby the vehicle of execution was deliberately stalled.

The majority opinion of the high tribunal does not lend itself to attack. The only thing amazing about it is that four of the nine Justices should have taken an opposite view.

Organizations like the National Association for the Advancement of Colored People do themselves no good by making an emotional criticism of the case. They make the mistake of seeking to dramatize every conviction of a member of their race regardless of the circumstances or the elements of guilt involved.

Jennings Perry Newsday, N.Y.

Benefit of the Doubt

The Supreme Court is getting a murderer and the Louisiana electric chair a good deal of bumping for failing to step between a Louisiana boy and a deal of bumping for failing tric chair. This is the "double

jeopardy" case. Last May, the Louisiana chair wouldn't work. The question was whether Francis should be sent back to the chair when it would work. The majority of the Court (the split was 5-4) could not see double jeopardy.

Perry

Wed. 1-15-47

I have done my share of bumping the Supreme Court when I felt it was wrong. That is the right of any citizen. I am not bumping this time.

Mark: I do not think we, society, should kill Willie Francis. He committed his crime at 15. I do not think grown up people should kill children. But this is not what the Court had to decide. It is a thing Gov. Jim Davis of Louisiana has to decide, on a straight clemency appeal, and I earnestly hope he yet may give Willie Francis a commutation. It is a thing we all ought to decide for the future, through our lawmakers and in our laws. But the Court has to decide upon the laws we already have made.

Willie Francis is a Negro. It is possible that if he had been white he would not have been sentenced to the chair for a murder committed when he was 15. There is no question, I think, but that a great deal of the interest roused by Willie Francis' plight comes from the fact that he is a Negro, and from the general understanding that a Negro too often gets the short end of mercy in Louisiana—and in many another state. But the appeal made in Willie Francis' behalf to the Supreme Court made no allegation of discrimination on account of his color. The allegation was that to send him on a second trip to the faulty Louisiana chair would constitute double jeopardy, abhorent to our laws and mores.

You have to be able to imagine yourself on the bench in a black robe, sworn in conscience and in word to judge by the laws of the land as written, to be able to comprehend that it was harder for the majority to find as it has in this case than it was for the minority to dissent. Justice Frankfurter has tried to explain that. Under every robe there is a man. To argue that because the division was five to four the benefit of the doubt obviously present should have fallen on the side of our humane instincts rather than on the side of the written law is to overlook the probability that one or more, or perhaps all four, of the dissents proceeded from compassion. It could be that doubt had claimed—and received—all the benefit it could.

O.M.

Nobody has a monopoly on fellow-feeling. Last week I wrote something here about a poor devil named Rocco who shot his wife in a fit of jealousy and whom we, society, pursued and shot in turn. Our justification was that he was a menace. That is the justification of the law under which Willie Francis was sentenced. Society's weapon against Rocco was not the electric chair but a battery of guns. Rocco was shot five or six times. I don't know which shot killed him—but would not all the shots after the first one have been "double jeopardy"? If Rocco had run a mile—or for days—would not we still have shot him again in the end?

New York, N.Y.

Send your wires to Gov. Jim Davis—and to President Truman if you will—praying for clemency for Willie Francis on the sound grounds that he is a child and that we ought not to kill children. Send your letters to your legislators and ask them to vote ouf capital punishment on the grounds that it is reckless and presumptuous of society to take any man's life.

But think twice before bumping the Supreme Court too harshly for its unpopular decision in the Willie Francis case. It is not a pardon board. It is a court of law. And it did not write the law. We wrote it.